

29.07.2024
Ct. No. 2
Sl. No. 9
tbsr

WPA 26247 of 2022
Rama Bauri
Vs.
The State of West Bengal & Ors.

Mr. Pinaki Ranjan Chakraborty
Mr. Pallav Chatterjee
Mr. Monojit Chakraborti
....for the petitioner
Mr. Chandi Charan De
Mr. Susovan Sengupta
Mr. Subir Pal
....for the State

The petitioner was granted with the mining lease by the State authority on **January 9, 2009**. It was for **five years**. Subsequently, extended by a communication dated **December 17, 2012 at page 52** to the writ petition till **January 3, 2017**. The petitioner then applied for extension of lease which was ultimately rejected by the impugned order dated **February 9, 2022** passed by the respondent no. 2 at **page 88** to the writ petition.

The said impugned order is appealable under **Rule 51** of the **West Bengal Minor Minerals Concession Rules, 2016**.

Learned counsel for the petitioner submits that, by passing the said impugned order, the respondent no. 2 had failed to follow the direction of the Co-ordinate Bench dated **December 2, 2021 at page 83** to the writ petition.

Mr. Susovan Sengupta, learned State counsel appears for the respondents submits that, the impugned order is an appealable order under **Rule 51** of the **West Bengal Minor Minerals Concession Rules, 2016**.

He further submits that, under **clause 12** of the lease deed the new Act/Rules shall be applied irrespective of the fact that the lease was granted within prior to the new Act/Rule came into force. Hence this writ petition is not maintainable.

After considering the rival contentions of the parties and upon perusal of the materials on record it appears to this Court that firstly, if at all the direction of the Co-ordinate Bench has not been complied with while disposing of the case of the petitioner by the respondent no. 2 such point could have been raised before the appellate authority.

Secondly, on close scrutiny of the said impugned order, it further appears to this Court that, several factual matrix may be required to be gone into including the application of those certificates and their relevance in the facts of the case of the petitioner as referred to in the order of the Co-ordinate Bench dated December 2, 2021. Such factual enquiry cannot be done by the writ court.

The remedy provided under **Rule 51** of the said **2016 Rule** is an alternative, efficacious and speedy remedy.

In view of the foregoing reasons and discussions, this writ petition **WPA 26247 of 2022** stands **dismissed**, without any order as to costs.

It is made clear that, this Court has not gone into the merits of the writ petition or merits of the claim of the petitioner or the rival contentions of the parties.

The parties shall be at liberty to urge whatever points they wish to urge before the appellate authority in accordance with law. In the event, an appeal is preferred by the petitioner and the same is held to be maintainable by the appellate authority, then the appellate authority shall dispose of the appeal as expeditiously as possible without granting any unnecessary adjournments to the parties.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)