

27.11.2024
Ct. No. 2
Sl. No. 30
Moumita

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

WPA 26677 of 2024

**Mallika Biswas
Vs
The State of West Bengal and Ors.**

**Mr. Sushanta Kumar Rakshit
...for the petitioner**

**Mr. Chandi Charan De, Ld. Addl. Govt. Pleader
Mr. Anirban Sarkar
.....for the state**

Affidavit-of-service, filed in court today, is taken on record.

Mr. Sushanta Kumar Rakshit, learned counsel appears for the petitioner.

Mr. Anirban Sarkar led by Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondents.

The petitioner claims grant of long term mining lease. The previous writ petition **WPA 2380 of 2017** filed by the petitioner was disposed of by a co-ordinate bench on **April 26, 2023** by directing the authority to consider the case of the petitioner at **page 24** to the writ petition. The respondent no. 4 then decided the issue by passing the impugn reasoned order dated **September 7, 2023** **Annexure P 5 at page 26** to the writ petition. The same is impugned herein.

The record shows that the petitioner applied for obtaining of mining lease prior to 2021 rule come into

force. In 2021 the new mining rule has been promulgated and has become effected, namely, the **West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021** (for short the 2021 Rules). Under the said 2021 Rules the authority is **West Bengal Mining Development and Trading Corporation Ltd.** (for short the said Corporation) to grant mining lease and the respondent no. 4 is not jurisdictional and appropriate authority. Therefore, no fruitful purpose shall be served unless the petitioner approaches the jurisdictional and appropriate authority under the said 2021 Rules.

In view of the above, the petitioner shall be at liberty to submit a fresh application before the appropriate authority of the said corporation for obtaining mining lease within a period of two weeks from date.

In the event, such an application is submitted by the petitioner the appropriate authority of the said corporation after granting an opportunity of hearing to the petitioner shall decide the representation of the petitioner by passing a reasoned order in accordance with law.

It is made clear that such application of the petitioner shall be considered as if the said application has been filed under the said 2021 Rules and in the light of such rules.

It is made clear that this order shall not create any right or equity in favour of the petitioner, if the petitioner does not succeed to his claim before the corporation under the purview and meaning of the said 2021 Rules.

The entire exercise as directed herein shall be carried out and completed by the appropriate authority of the corporation positively within a period of **six weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioner within **one week** from the date of the reasoned order.

In the event, the reason order goes in favour of the petitioner then said corporation and or any other appropriate state authority shall take all necessary and consequential steps to give an effect to the said reason order but positively within a period of four weeks from the date of the said reason order to be passed.

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

With the above observations and directions, this writ petition **WPA 26677 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)