

S/L 10
29.07.2025
Court. No. 19
Suwayan

WPA 827 of 2025

**Imran Khan
Vs.
The State of West Bengal & Ors.**

*Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Moniruzzaman*

...for the petitioner.

*Mr. Sanjay Saha
Mr. Raju Mondal*

...for the respondent nos. 4 & 5.

1. Both the writ petitioner and the respondent nos. 4 and 5 that is the instrumentalities of West Bengal Mineral Development and Trading Corporation Limited are represented by their respective Counsels.
2. On behalf of the writ petitioner an exception is filed against the report as submitted by the respondent nos. 4 and 5 which is taken on record.
3. The subject matter of challenge of the instant writ petition is the order dated 13.09.2024 as passed by the respondent no. 5/authority whereby and whereunder the said respondent no. 5/authority declined to grant prospective license cum mining lease for black stone to the writ petitioner in LR plot no. 316/5613 measuring about 2.165 hecter.
4. At the time of hearing, Mr. Bhattacharyya, learned Senior Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 43 to 56 of the instant writ petition being a copy of the registered deed of conveyance dated 15.03.2014 as executed by the vendor of the writ

petitioner in favour of the writ petitioner (purchaser) in respect of a portion of the aforementioned plot of land along with other lands as well as some records of rights standing in the name of the writ petitioner in respect of the said plot of land.

5. It is submitted by Mr. Bhattacharyya that from page nos. 61 to 63 of the instant writ petition it would reveal that the writ petitioner after becoming owner of the said plot of land applied before the respondent State/authority for grant of license cum mining lease for minor minerals on such Raiyati land. It is submitted that from page nos. 76 to 78 of the instant writ petition it would reveal that on being satisfied with such application the respondent no. 4/authority granted Letter of Intent (LoI in short) dated 04.09.2023 in respect of the said Raiyati plot in favour of the writ petitioner.
6. It is further submitted that prior to grant of LoI an enquiry was conducted by the appropriate authority.
7. It is further submitted by Mr. Bhattacharyya that from page nos. 82 and 84 of the instant writ petition it would reveal that the writ petitioner thereafter has submitted mining plan as well as geological report with the appropriate authorities for obtaining license as prayed for.
8. Drawing attention to paragraph no. 7 of the report as submitted by the respondent nos. 4 and 5 *vis-à-vis* page no. 37 of such report being the internal page no. 19 of the copy of the lease deed dated 20.01.2022 as

executed by and between the Government of West Bengal (lessor) and the West Bengal Mineral Development and Trading Corporation Limited (lessee) it is further submitted by Mr. Bhattacharyya that despite the fact that the subject land is a Raiyati land no offer has been made to the present writ petitioner being the Raiyat to award any compensation though it has been claimed by the respondent nos. 4 and 5 that the Raiyati land of the writ petitioner was reserved by the said corporation.

9. It is thus submitted by Mr. Bhattacharyya that the respondent no. 5/authority while passing the order under challenge has failed to visualize that true meaning and implication of Section 17A of Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the 'said Act of 1957') and thus most unilaterally rejected the application of the writ petitioner for grant of license for no reason whatsoever even though LoI was issued to the writ petitioner. It is thus submitted by Mr. Bhattacharyya that the order as passed by the respondent no. 5/authority is absolutely perverse and unjustified inasmuch as the respondent no. 5/authority had failed to act in terms of Section 17A of the said Act of 1957. It is thus submitted by Mr. Bhattacharyya that the writ petitioner is entitled to reliefs as prayed for in the instant writ petition.
10. Per contra, Mr. Saha, learned Advocate appearing on behalf of the respondent nos. 4 and 5 also places his

reliance upon the provision of Section 17A of the said Act of 1957. It is submitted by Mr. Saha that on perusal of Section 17A of the said Act of 1957 it would reveal that it is the clear legislative mandate that the Central Government after consultation with the State Government with a view to conserving any mineral may reserve any area for mining operation through a Government company or corporation owned or controlled by it. It is further submitted by Mr. Saha that Section 17A (1A) further mandates that in doing so a notification is to be published in the Gazette.

11. At this juncture, Mr. Saha draws attention of this Court to page no. 18 of the report as filed by the respondent nos. 4 and 5. It is submitted that from page no. 18 of the said report being a copy of the Gazette notification dated 08.11.2002 it would reveal that in Mouza – Hatgacha, J.L. no. 1 was kept reserved in favour of West Bengal Mineral and further in terms of the provision of Section 17A a lease deed was executed by the State of West Bengal in favour of the respondent nos. 4 and 5/authorities for mining lease for black stone.
12. It is thus submitted by Mr. Saha that the respondent no. 5/authority thus rightly observed that since the relevant plot falls within the leasehold area as retained by the lessee respondent no. 4/authority under Section 17A of the said Act of 1957 by no stretch of imagination it can be held that the order dated 13.09.2024 as

passed by the respondent no. 5/authority is either unjustified and/or beyond the provisions of law.

13. It is further submitted by Mr. Saha that on conjoint perusal of the page nos. 20 and 21 of the said lease deed dated 20.01.2022 it would reveal that the relevant plot bearing plot nos. 316/5613 in Mouza – Hatgacha is within the schedule of the said deed of lease.
14. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties, this Court at the very outset proposes to look to the provision of Section 17A of the said Act of 1957.
15. Section 17A of the said Act of 1957 reads as under:

“17A. Reservation of area for purpose of conservation.- (1) The Central Government, with a view to conserving any mineral and after consultation with the State Government, may reserve any area already held under any prospecting licence or mining lease and, where it proposes to do so, it shall, by notification in the Official Gazette, specify the boundaries of such area and the mineral or minerals in respect of which such area will be reserved.

(1A) The Central Government may in consultation with the State Government, reserve any area not already held under any prospecting licence or mining lease, for undertaking prospecting or mining operations through a Government company or corporation owned or controlled by it, any where it proposes to do so, it shall, by notification in the Official Gazette, specify the boundaries of such area and the mineral or

minerals in respect of which such area will be served.

(2) The State Government may, with the approval of the Central Government, reserve any area not already held under any prospecting licenece or mining lease, for undertaking prospecting or mining operations through a Government company or corporation owned or controlled by it and where it proposes to do so, it shall, by notification in the Official Gazette, specity the boundaries of such area and the mineral or minerals in respect of which such areas will be reserved.

(2A) Where in exercise of the powers conferred by sub-section (1A) or sub-section (2), the Central Government or the State Government, as the case may be, reserves any area for undertaking prospecting or mining operations or prospecting operations followed by mining operations, the State Government shall grant prospecting licenece, mining lease or composite licence, as the case may be, in respect of such area to such Government company or corporation within the period specified in this section:

Provided that in respect of any mineral specified in Part B of the First Schedule, the State Government shall grant the prospecting licence, mining lease or composite licence, as the case may be, only after obtaining the previous approval of the Central Government.

(2B)

(2C)

(3) Where in exercise of the powers conferred by sub-section (1A) or sub-section (2) the Central Government or the State Government, as the case may be undertakes prospecting or mining operations in any area in which the

minerals vest in a private person, it shall be liable, to pay prospecting fee, royalty, surface rent or dead rent, as the case may be, from time to time at the same rate at which it would have been payable under this Act if such prospecting or mining operations had been undertaken by a private person under prospecting licence or mining lease.

(4)

(5)”

16. On careful perusal of the aforementioned legislative provision it appears to this Court that Section 17A of the said Act of 1957 clearly mandates that the Central Government with a view to conserving any mineral and after consultation with the State Government may reserve any area for prospecting license or mining lease and in doing so it shall specifies the boundaries of such area and the mining and minerals in respect of such area will be reserved by the notification in the official Gazette. Section 17A(1A) further mandates that the Central Government may in consultation with the State Government is empowered to do the mining operation through a Government company or corporation owned or control by it in respect of the areas which has been specified in the said notification as has been published in the official Gazette.

17. Keeping in mind, the aforementioned legislative provision if I look to the page no. 19 of the report as filed by the respondent nos. 4 and 5/authorities it reveals to this Court that the respondent no. 4 i.e. the West Bengal Mineral Development and Trading

Corporation Limited is a fully owned Government company/corporation and, therefore, this Court has got no hesitation to hold that the lease deed as has been executed in favour of the respondent no. 4/authority by the respondent/State is in consonance with the provisions of Section 17A(1A) of the said Act of 1957.

18. As rightly pointed out by Mr. Saha that in terms of the provision of Section 17A the respondent/State has notified in the Gazette where it intends to held mining operation for excavation of minor minerals like black stone which includes the Hatgacha Mouza where the Raiyati plot of the writ petitioner falls.

19. In view of such, this Court finds no illegality in the order under challenge especially when the respondent no. 5/authority had come to a finding that the applied area falls within the existing leasehold area of Hatgacha black stone mine.

20. At this juncture, if I again look to the provision of Section 17A(3) of the said Act of 1957 it reveals that it is the further legislative mandate that in the event the Central Government or the State Government as the case may intends to allow a private person to undertake prospecting or mining operation in any area in which the minerals vest in a private person, such private person is liable to pay prospecting fee, royalty, surface rent or dead rent as the case may be from time to time at the same rate at which it would be payable under the said Act of 1957.

21. At this juncture, if I again look to the factual aspects of this case it is undisputed that after purchase of the aforementioned plot of land the writ petitioner approached the respondent no. 4/authority for granting mining lease license and after compliance of all formalities LoI was issued to the writ petitioner.

22. Admittedly, the aforementioned plot of land being plot no. 316/5613 is situated in Mouza – Hatgacha which is reserved land as rightly held by the respondent no. 5/authority, however, no materials could be placed on behalf of the respondent nos. 4 and 5 that even in such reserved area the writ petitioner being a Raiyat was not agreeable to pay prospecting fee, royalty, surface rent or dead rent for undertaking prospective or mining operation as mandated under Section 17A(3) of the said Act of 1957.

23. It appears to this Court that the respondent no. 5/authority while passing the order under challenge has practically negated the contention of the writ petition by holding that the said plot of land being plot nos. 316/5613 though a Raiyati land but it falls within the leasehold area. It thus appears to this Court that while passing the order under challenge dated 13.09.2024 the respondent no. 5/authority has not considered the true implication of provisions of Section 17A(3) of the said Act of 1957.

24. In view of such, this Court holds that the respondent no. 5/authority while passing the order under challenge has failed to discharge his statutory

obligation in not considering the application for license of the writ petition in the light of the provision of Section 17A of the said Act of 1957 more specifically Sub-Section (3) thereof.

25. In view of the discussion made hereinabove this Court thus finds sufficient merit in the instant writ petition and accordingly WPA 827 of 2025 is hereby allowed.

26. Consequently, the order dated 13.09.2024 as passed by the respondent no. 5/authority is hereby set aside.

27. The respondent no. 5/authority is further directed to reconsider the application for prospective license cum mining lease for black stone as submitted by the writ petitioner afresh in the light of the observation as made hereinabove as well as in terms of the provision of Section 17A(3) of Mines and Minerals (Development and Regulation) Act, 1957 and thereafter shall pass a reasoned order after giving a chance of hearing either to the writ petitioner or to his authorized representative.

28. The entire exercise as indicated hereinabove is to be completed by the respondent no. 5/authority within 30 working days from the date of communication of the server copy of this order.

29. Liberty is given to the learned Advocate-on-Record of the writ petitioner to communicate the server copy of this order to the respondent no. 5/authority.

30. The respondent no. 5/authority is directed to act on the server copy of this order.

31. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)