

S/L 76
23.06.2025
Court. No. 19
Suwayan

WPA 2024 of 2024

**Triumph Sales and Services
Vs.
State of West Bengal & Ors.**

*Mr. Kushal Chatterjee
Mr. A. S. Tarafdar*

...for the petitioner.

*Mr. Soumitra Bandyapadhyay
Mr. Srinath Singha Roy*

...for the State.

Mr. Sanjay Saha

...for the respondent no. 2.

1. The affidavit-of-service as filed on behalf of the writ petitioner is taken on record.
2. The instant writ petition has been filed by the writ petitioner for non-consideration of the representation dated 24.04.2023 as submitted through the learned Advocate for the writ petitioner with the respondent no. 5/authority.
3. In course of his argument Mr. Chatterjee, learned Advocate appearing on behalf of the writ petitioner submits before this Court that admittedly a lease deed for extraction of sand from river bed was executed in favour of the writ petitioner with effect from 01.02.2018 till 31.03.2023. It is further submitted by Mr. Chatterjee that being the successful highest bidder such lease deed was executed and the writ petitioner has deposited the entire bid amount except Rs. 6 lakhs.
4. It is further submitted by Mr. Chatterjee that on account of surge of Covid-19 the writ petitioner could

not extract sand from the leasehold area of the relevant river bed. It is further submitted by Mr. Chatterjee that from page no. 77 of the instant writ petition being internal page no. 42 of the copy of the deed of lease it would reveal that in case of non-fulfillment of the terms of the lease on the part of the lessee due to “force Majeure” such breach of the terms and conditions of the lease would not be considered by the lessor as a breach of terms and conditions of the lease and on account of such “force Majeure”, the period of delay would be added to the period fixed by the lease.

5. It is further submitted by Mr. Chatterjee that on account of surge of Covid-19 which according to him comes under the clause “force Majeure”, the writ petitioner could not extract sand from the leasehold area of the river bed and for which the representation dated 24.04.2023 was given on behalf of the writ petitioner with the respondent no. 5/authority basically for adding the period on and from 23.03.2020 till 31.03.2021 that is the relevant period of lockdown between which the entire work of excavation of the writ petitioner became stand still.
6. Mr. Bandyapadhyay, learned Advocate appearing on behalf of the respondents/State in his usual fairness submits before this Court that the respondent no. 5/authority may be directed to consider the representation dated 24.04.2023 in accordance with law.

7. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties this Court while disposing the instant writ petition directs the respondent no. 5/authority to consider the representation dated 24.04.2023 as submitted before him through the learned Advocate for the writ petitioner and after giving an opportunity of hearing to the writ petitioner and/or his authorized representative shall pass a reasoned order and communicate the same to the writ petitioner preferably by mail, if the mail detail of the writ petitioner is provided to him at the time of hearing.
8. The entire exercise as indicated in the foregoing paragraph is to be completed within 45 working days from the date of communication of the server copy of this order.
9. Liberty is given to the learned advocate for the writ petitioner to communicate the server copy of this order to the respondent no. 5/authority.
10. The respondent no. 5/authority is directed to act on the server copy of this order.
11. The time limit as fixed by this Court is mandatory and peremptory.
12. Before parting with, it is, however, made clear that since affidavits have not been called for the allegations made in the instant writ petition are deemed to have been denied.

13. It is further made clear that the demand of the respondents/authorities from the writ petitioner to make payment of balance Rs. 6 lakhs of the bid amount shall be kept in abeyance till passing of the reasoned order by the respondent no. 5/authority.
14. With the aforementioned observations, the instant writ petition being WPA 2024 of 2024 is disposed of.
15. 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.)