

April 10, 2025
Sl. No.15
Court No.19
s.biswas

WPA 5108 of 2025

Soid Amir Alia alias Saiyed Amir Ali
vs.
The State of West Bengal and others

Mr. Sk. Humayan Reza
Mr. Sk. Morshed Ali

... for the petitioner

Mr. Lalit Mohan Mahata, AGP
Mr. Ziaul Haque

... for the State

1. The affidavit of service as filed on behalf of the petitioner is taken on record.
2. The writ petitioner has prayed for issuance of appropriate writ/writs against the respondent no.4 for grant of renewal of mining lease in favour of the writ petitioner in respect of plot No.541(P) measuring about an area of 9 acres of mouza Pantarai, J.L. No.42, P.S. Indus, District Bankura.
3. In course of hearing learned counsel for the writ petitioner at the very outset draws attention of this court to page nos.76 to 79 of the instant writ petition being a copy of the order dated 11.11.2024 as passed in Appeal Case No.30 of 2023 by the Commissioner, Medinipur Division being the respondent no.4 herein. It is submitted on behalf of the writ petitioner that the order as passed by the respondent no.4 authority is perverse since the said appellate authority had failed to consider that prior to coming to force of

the West Bengal Minor Mineral Rules, 2002, the writ petitioner has filed his application for renewal of lease on 05.06.2014 before the DL&LRO, Bankura, which was not considered favourably. It is argued that the respondent no.4 authority has failed to visualize the said illegality and/or irregularity while passing the order under challenge.

4. Per contra, Mr. Mahata, learned counsel on behalf of the respondent State and its functionaries, submits before this court that the instant writ is not maintainable in view of the fact that in the prayer portion of the writ petition the writ petitioner has not prayed for issuance of any writ for cancellation and/or setting aside the order dated 11.11.2024 as passed in Appeal Case No.30 of 2023. It is further submitted by Mr. Mahata that on the contrary the writ petitioner has prayed for granting of renewal of mining lease in respect of the aforementioned plot of land. It is submitted by Mr. Mahata that unless any prayer for setting aside the said order dated 11.11.2024 is made, the prayer (A) of the instant writ petition cannot be held to be maintainable.
5. On careful consideration of the entire materials as placed before this court, this court noticed the following:

- (i) While passing the order under challenge dated 1.11.2024 as passed by the respondent no.4 authority in Appeal Case 30 of 2023, the respondent no.4 noticed that originally one mining lease was executed in favour of the writ petitioner on 11.09.2009 which stood expired on 10.09.2014.
- (ii) The respondent no.4 further noticed that prayer for renewal of lease was declined by DL&LRO, Bankura, since the prayer for renewal was not made within the stipulated time period.
- (iii) The respondent no.4 further observed that application for renewal of mining lease should have been made to the State (or to an officer authorized in this behalf) in Form D at least six months before the date the lease is expired.
- (iv) It has been further observed that the said application shall have to be accompanied with a fees of Rs.500/- and upto date clearance certificate.
- (v) It has been observed further by the respondent no.4 authority that in the meantime the West Bengal Minor Minerals Rules, 2002 was repealed and the same has been substituted with the

enactment of the West Bengal Minor Minerals Concession Rules, 2016.

(vi) On 05.06.2014 the writ petitioner filed the application for renewal of mining lease in prescribed form and without requisite renewal fees.

(vii) The respondent no.4 authority further observed that in terms of West Bengal Sand Mining Policy vide Notification No.284-ICE/O/MIN/GEN/MIS/02/2021 dated 30.07.2021 as issued by the Department of Industries, Commerce and Enterprises, Government of West Bengal, the existing lease should not be renewed and would be automatically vested upon the State Government upon expiry of such lease.

6. On careful consideration of the aforesaid materials, this court considers that the respondent no.4 had given sufficient reason while passing the order under challenge for not considering the said appeal in favour of the writ petitioner. This court finds no perversity in the order under challenge. This court finds that the respondent no.4 authority had acted in accordance with law and this court sitting in writ jurisdiction ought not to have interfered in the administrative domain of the respondent no.4

unless sufficient materials have been placed that the order under challenge is not sustainable in the eye of law. This court thus finds no merit in the instant writ petition.

7. Accordingly the instant writ petition is dismissed.
8. There shall be however no order as to costs.
9. Urgent photostat certified copy of this order, if applied for, be supplied upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)