

S/L 15
24.10.2025
Court. No. 19
Suvayan

WPA 8626 of 2025

**Subhas Mondal
Vs.
State of West Bengal & Ors.**

*Mr. Shibaji Kumar Das
Ms. Parbati Mondal*

...for the petitioner.

Mr. Priyabrata Batabyal

...for the State.

1. The writ petitioner and the respondents/State are represented by their respective Counsels.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no. 7/authority for quashing of the order dated 19.12.2023 as has been annexed at page nos. 122 to 125 of the instant writ petition.
3. At the time of hearing, Mr. Das, learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 25 to 60 of the instant writ petition being a registered deed of lease dated 24.10.2014 as has been executed in favour of the writ petitioner by the respondents/authorities for carrying on excavation of sand over the plot no. 2(P), Khatian no. 1, J.L. no. 39 under P.S. – Indas in respect of an area measuring about 10 acres over the river bed of Darakeswar. It is submitted by Mr. Das that from the copy of the said deed of lease dated 24.10.2014 it would reveal that the period of lease was for two years.

4. It is further submitted by Mr. Das that indisputedly the writ petitioner being the lessee of the said area could carry out the mining operation for a period of 1 year 3 months in view of the order of the Hon'ble Supreme Court instead of two years though the writ petitioner has duly paid the entire royalty amount with the respondents/authorities.
5. It is submitted by Mr. Das that the said lease contained a stipulation that the writ petitioner being the lessee shall have to extract minimum 65,000 c.ft. of sand per acre from the leasehold area per annum, failing which the writ petitioner is subject to penalty. It is submitted that for no laches and/or fault of the writ petitioner, the writ petitioner could not excavate sand for 9 months in terms of the said deed of lease and thus the writ petitioner approached the respondents/authorities by submitting a representation which was disposed of by the respondent no. 7/authority vide its order dated 19.12.2023 in a manner which is contrary to the law and the same is thus subject matter of the instant writ petition.
6. It is argued by Mr. Das that on bare perusal of the impugned order dated 19.12.2023 it would reveal that the respondent no. 7/authority while passing the said reasoned order under challenge dated 19.12.2023 has failed to visualize that for no fault of the writ petitioner, the writ petitioner could not excavate sand from the leased out area for the period of 9 months. It is further submitted by Mr. Das that the respondent no. 7/authority most mistakenly considered the

representation of the writ petitioner for allowing him to carry out mining activity for the remaining 9 months as a prayer for extension of the said registered deed of lease. It is further contended by Mr. Das that at no material time the writ petitioner has prayed for extension of the period of lease dated 19.12.2023 and, therefore, the respondent no. 7/authority had most wrongly placed his reliance upon the provisions of West Bengal Minor Mineral Concession Rules, 2016 as well as West Bengal Minor Minerals (Auctions) Rules, 2016 which do not permit for extension of the period of lease.

7. It is thus submitted by Mr. Das that since the writ petitioner has deposited the entire royalty amount in terms of the deed of lease dated 20.02.2015 and since the mining activity over the leased out area was stopped at the instance of the respondents/authorities in terms of the directions of the Hon'ble Supreme Court by no stretch of imagination the respondent no. 7/authority should have considered the prayer of the writ petitioner for allowing mining activity of the remaining 9 months over the leased hold area as an application for extension of the mining lease.
8. It is thus submitted by Mr. Das that appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition.
9. It is further submitted by Mr. Das upon instruction that the writ petitioner is agreeable to abide by the terms and conditions of the aforementioned registered deed of lease dated 24.10.2014 and he is further agreeable to pay

the necessary royalty amount if the writ petitioner is permitted to carry out mining activity over the leased out area for 9 months more upon compliance of all legal formalities.

10. Per contra, Mr. Batabyal, learned Advocate appearing on behalf of the respondents/State also placed his reliance upon the order under challenge dated 19.12.2023. It is submitted by Mr. Batabyal that from the order under challenge it would reveal that the respondent no. 7/authority has correctly noted that in the meantime the West Bengal Minor Mineral Concession Rules, 2002 (hereinafter referred to as the 'said Rules of 2002' in short) has been repealed and in its place the West Bengal Minor Mineral Concession Rules, 2016 as well as West Bengal Minor Mineral (Auction) Rules, 2016 have been brought into effect.
11. It is further submitted by Mr. Batabyal that the respondent no. 7/authority rightly noticed that the said registered deed of lease dated 24.10.2014 was executed in terms of the said Rules of 2002 which has now been repealed and, therefore, the respondent no. 7/authority is perfectly justified in rejecting the writ petitioner's representation for allowing further mining activity for 9 months since the same is not permissible under the aforementioned two Rules of 2016. It is further submitted by Mr. Batabyal that from the order under challenge dated 19.12.2023 it would reveal that there was inordinate delay on the part of the writ petitioner to approach the respondent no. 7/authority for allowing

him to carry out the mining activity for a further period of 9 months and thus by submitting his representation the writ petitioner has practically applied for extension of mining lease which is opposed to the aforementioned two Rules of 2016 as well as West Bengal Sand Mining Policy, 2021.

12. Mr. Batabyal thus submits that it is a fit case for dismissal of the instant writ petition.
13. This Court has meticulously gone through the entire materials as placed before this court. This Court has given its due consideration over the submissions of the learned Advocates for the contending parties.
14. On careful perusal of the entire materials as placed before this Court, it reveals that admittedly a registered deed of lease dated 24.10.2014 was executed by the respondents/authorities in favour of the writ petitioner for carrying out excavation of sand from the aforementioned plot of land particulars of which has been mentioned in Part I of the schedule of the registered deed of lease dated 24.10.2014.
15. It is also undisputed that the period of lease was for two years.
16. Materials have been placed before this Court that for some reason or other the writ petitioner was prevented from carrying out mining activity after 1 year 3 months from the date of execution of the deed of lease.
17. There is no allegation against the writ petitioner that the writ petitioner has violated the terms and conditions of

the lease and/or the writ petitioner has excavated the sand beyond the leased out area.

18. On careful perusal of the order under challenge dated 19.12.2023 it appears to this Court that the respondent no. 7/authority while dealing with the representation of the writ petitioner for allowing him to carry out mining activity for the remaining period of 9 months has considered such representation as a prayer for extension of the mining lease though no material has been placed on behalf of the State that the writ petitioner has practically applied for extension as held by the respondent no. 7 in its impugned order dated 19.12.2023.
19. The respondent no. 7/authority in its impugned order dated 19.12.2023 placed much reliance upon the said Rules of 2016 as well as West Bengal Sand Mining Policy, 2021 overlooking the fact that the writ petitioner has paid the royalty amount prior to the execution of the registered deed of lease dated 24.10.2014 and thereafter the said registered deed of lease was executed for two years. Materials have been placed before this Court that the writ petitioner was permitted to carry out mining activity for 1 year 3 months for a leased out area and, therefore, there cannot be any justification on behalf of the respondent no. 7/authority to prevent the writ petitioner from carrying out the mining activity for the remaining period of lease especially when it is not the case of the respondents/authorities that the prohibition

order as passed by the Hon'ble Supreme Court is still in force.

20. In view of such, this Court finds sufficient merit in the instant writ petition.
21. Accordingly, the instant writ petition is hereby allowed.
22. Consequently, the impugned order dated 19.12.2023 as passed by the respondent no. 7/authority is hereby set aside.
23. Consequently, the prayer made by the writ petitioner under cover of his representation dated 29.09.2023 is hereby allowed.
24. Consequently, the respondent no. 7/authority is directed to permit the writ petitioner to carry out mining activity over the leased out area particulars of which has been mentioned in Part I of the schedule of the registered deed of lease dated 20.02.2015 for a period of 9 months with effect from January 1, 2026 upon compliance of all legal formalities as well as upon submission of environmental clearance report by the writ petitioner.
25. It is, however, made clear that while carrying out the mining activity for the remaining 9 months the writ petitioner shall have to abide by the terms and conditions of the registered deed of lease dated 20.02.2015.
26. The respondent no. 7/authority is further directed to issue requisite numbers of road challans for carrying and transporting the extracted sand from the leasehold mining area in favour of the writ petitioner time to time.

27. Liberty is given to the learned Advocate-on-Record to communicate the server copy of this order to the respondent no. 7/authority.
28. The respondent no. 7/authority is hereby directed to act on the server copies of this order.
29. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)