

July 15, 2025
Sl. No.13
Court No.19
s.biswas

WPA 9479 of 2025

*Naj Trading Company represented by
Munshi Md. Hasanuzzaman*

vs.

The State of West Bengal and others

Mr. Robiul Islam
Mr. Sk. Jayed Hossain
Mr. K. M. Hossain
Ms. Keya Sutradhar
Mr. Kazi Ardan Ali
Mr. Masooq Rheman

... for the petitioner

Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Subhasis Bandyopadhyay

... for the State

Mr. Sanjay Saha
Mr. Raju Mondal

... for the respondent no.7

1. The parties are represented by their respective learned advocates. On behalf of the respondent State a report dated 10.07.2025 as prepared by the respondent no.4 is submitted and the same is taken on record.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities; more specifically against the respondent no.3/authority, to grant extension of mining lease dated 08.05.2018 for a further period of 881 days in respect of Sand Block No.0121DM004, located in Plot No.1, lying in mouza Deulpara, J.L. No.2, P.S.-Patrasayer, District-Bankura over an area of 10.74 acres in the reiverbed of Damodar upon withdrawal of the suspension order dated 10.12.2020.

3. At the time of hearing, Mr. Islam, learned advocate appearing for the writ petitioner, duly assisted by Mr. Hossain, learned advocate, at the very outset draws attention of this court to page no.49 of the instant writ petition being a copy of the Letter of Intent dated 03.01.2018 as has been issued in favour of the writ petitioner by the respondent authorities.
4. It is submitted that from page nos.58 to 91 of the instant writ petition, it would reveal that subsequently on 08.05.2018 a lease deed was executed by and between the respondent no.3 (lessor) and the writ petitioner herein (lessee) for excavation of sand from the aforementioned sand block.
5. It is further submitted on behalf of the writ petitioner that after execution of the said deed of lease and after initiation of the work of excavation of sand from the said sand block, the writ petitioner had to stop the work of excavation as directed by the respondent authorities on various occasions on various grounds and on due compliance of the requisite formalities by the writ petitioner the work of excavation was resumed time to time.
6. At this juncture, the learned advocate for the writ petitioner draws attention of this court to page no.111 of the instant writ petition being a copy of

the memo dated 10.12.2020 as issued by the respondent no.3/authority, whereby the writ petitioner was asked to show cause as to why the respondent authorities would not take appropriate action including termination of mining lease over the aforementioned sand block on the allegation of illegal mining activities on the part of the writ petitioner in contravention of the existing rules, guidelines, norms and procedure of mining.

7. It is further submitted that by the self-same memo dated 10.12.2020, the activity of the writ petitioner was suspended by the respondent no.3/authority.
8. It is submitted that soon thereafter i.e. on 20.09.2021 the writ petitioner replied to such show cause clearly indicating that on account of mistake the writ petitioner carried out the excavation work beyond the leased out area and at the same time, the writ petitioner assured the respondent no.3/authority that the writ petitioner would not commit similar such mistake in future.
9. It is the grievance of the writ petitioner that even on receipt of such reply, the respondent authorities more specifically the respondent nos.3 and 4 authority practically did nothing and did not take any steps for withdrawal of the suspension order as imposed upon the writ

petitioner and as a result whereof, the period of lease for five years as has been executed on 08.05.2018 has expired.

10. At this juncture, attention of this court is drawn to Rule 50 of the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as 'the said Rules' for short). It is submitted on perusal of Rule 50(5) of the said Rules, it would reveal that it is the clear legislative mandate that in case of removal of any mineral from any land without any lawful authority, the respondent authorities may recover from such person the mineral so removed or where such minerals has already been disposed of, the price thereof along with royalty or tax as the case may be for such period during which the land was unlawfully excavated without any lawful authority. It is thus submitted that the respondent authorities more specifically the respondent nos.3 and 4 authority ought to have proceeded in accordance with the provision of Rule 50(5) of the said Rules.
11. It is further submitted that in terms of Clause 29 of the lease deed dated 08.05.2018, the lessor being the respondent no.3 herein is duty bound to assess the compensation as payable by the writ petitioner.

12. It is thus submitted that appropriate relief/reliefs may be granted in terms of the prayers of the instant writ petition.

13. Per contra, Mr. Bandyopadhyay, learned Senior Government Advocate, appearing on behalf of the respondent State draws attention of this court to page nos.16 to 20 of the said report dated 10.07.2025. It is submitted that from the annexures to the said report it would reveal that the writ petitioner has already withdrawn the bank guarantee which clearly indicates that the writ petitioner has not at all performed its obligation in terms of the said lease of deed dated 08.05.2018. It is further submitted by Mr. Bandyopadhyay that under the said Rules there is no provision for extension of term 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 considers that for effective adjudication of the instant *lis*, Clause 29 of the lease deed is required to be looked into and the same is reproduced below in verbatim:

“29. *The lessess/lessees shall abide by all existing laws and rules and regulations enforced by the Government of India or the State Government/District Authority and all such other laws, rules and regulations, as may be enforced from time to time, in respect of working of mines*

and minerals and other matters affecting the safety, health and convenience of the employees of the lessee/lessees or of the public. On receipt of a notice from the State Government/District Authority or from an officer authorized by the State Government in this behalf regarding any unlawful or irregular work in connection with the working of the mine, the lessee/lessees shall forthwith take steps to rectify the same. The lessee/lessees shall also be bound to pay compensation to the State Government/District Authority for all losses due to any illegal or unlawful work done by the lessee/lessees or his/their/its employees.”

15. At this juncture, this court also proposes to look to Rule 50 of the said Rules which is also quoted hereinbelow in verbatim:

“50. Penalty – (1) ...

(2) ...

(3) ...

(4) ...

(5) Whenever any person removes, without any lawful authority, any mineral from any land, the State Government or the authority authorized in this behalf by the State Government may recover from such person the mineral so removed or where such minerals has already been disposed of, the price thereof, and may also recover from such person the rent, royalty or tax, as the case may be, for such period during which the land was occupied by such person without any lawful authority.

(6) ...

(7) ...”

16. On perusal of Rule 50 Sub-rule 5 of the said Rules, it appears to this court that the said Rules clearly indicates that in the event any person removes any mineral from any land without obtaining prior permission of the State or the authority authorized in its behalf, the State may recover from such person the minerals so removed and where such minerals have already been disposed of, the price thereof as well as royalty or tax as the case may be for the period of which the land was occupied by the said offending person without any lawful authority.

17. On perusal of Clause 29 of Part VII of the deed of lease as has been annexed to page 85 of the instant writ petition, it reveals that the respondent authorities are duty bound to assess compensation as payable by the lessee on account of detection of any unlawful, illegal work in connection with the working of the mine.

18. Keeping in mind the aforementioned legislative provision as well as the aforementioned contents of Clause 29 of Part VII of the lease deed in question, if I look to the factual aspects of this case, it appears that pursuant to the show cause notice dated 10.12.2020, the writ petitioner on 20.09.2021 replied to such show cause, whereby and whereudner the writ petitioner has practically

admitted that due to bona fide mistake they have excavated beyond the leased out area.

19. As rightly pointed out by the learned advocate for the writ petitioner that on receipt of reply to such show cause, the respondent authorities more specifically; respondent nos.3 and 4 authority have not taken any steps for determination and recovery of value of the minor mineral as has been wrongly excavated by the writ petitioner as well as royalty or tax as would be payable by the petitioner.

20. It further appears to this court that the respondent authorities more specifically respondent nos.3 and 4 authority has not taken any steps to assess the compensation as would be payable by the writ petitioner/lessee to the respondent authorities on account of violation of the terms and conditions of the lease deed dated 08.05.2018. Rather, it appears to this court that on account of inaction on the part of the respondent nos.3 and 4 authority as mentioned in the foregoing paragraph, the period of lease as has been executed on 08.05.2018 has already been expired.

21. Admittedly on behalf of the respondent State sufficient materials have been placed before this court that after expiry of the period of lease, the writ petitioner has withdrawn the bank guarantee

as has been furnished at the time of execution of deed of lease, which according to Mr. Bandyopadhyay clearly indicates that writ petitioner's intention not to continue with the lease deed, which is however disputed by the learned advocate for the writ petitioner.

22. Considering the entire factual scenario, this court while disposing of the instant writ petition, directs the respondent no.3/authority to take appropriate decision on the reply to the show cause dated 20.09.2021 as submitted by the writ petitioner in the light of the provision of Rule 50 of the said Rules as well as in terms of the provision of Clause 29 of the Chapter VII of the lease deed dated 08.05.2018 within 30 working days from the date of communication of the server copy of this order and thereafter shall pass a reasoned order to that effect to communicate the same to the writ petitioner forthwith preferably by mail, if the email details of writ petitioner is provided to him at the time of hearing.

23. It is pertinent to mention herein that before passing the reasoned order, the respondent no.3/authority shall give due opportunity of hearing either to the writ petitioner and/or his authorized representative.

24. Before parting with, this court grants further liberty to the writ petitioner to submit a comprehensive representation with the respondent 3/authority regarding his prayer for extension of lease within 30 working days from the date of communication of this order and the respondent no.3/authority shall consider the said representation in accordance with law and after giving due opportunity of hearing to the writ petitioner shall pass a reasoned order on such comprehensive representation within 60 working days from the date of submission of such representation and forthwith communicate the same to the writ petitioner.

25. It is further directed that at the time of passing the reasoned order on such comprehensive representation, the respondent no.3 shall have to consider the impact of the compliance of the order as would be passed by him in terms of Rule 50 of the said Rules as well as Clause 29 of Chapter VII of the lease deed.

26. The time limit as fixed by this court is mandatory and peremptory.

27. With the aforementioned observation, the instant writ petition is disposed of.

28. Urgent photostat certified copy of this order if applied for, be supplied to the parties upon completion of all necessary formalities.

(Partha Sarathi Sen, J.)