

Item No.5  
07.08.2025  
Court. No. 19  
GB

W.P.A. 11031 of 2025

JHM Import Export Pvt. Ltd.  
Vs.  
The State of West Bengal & Ors.

*Mr. Robiul Islam,  
Mr. K.M. Hossain,  
Mr. Sk. Jayed Hossain,  
Ms. Keya Sutradhar,  
Mr. Kazi Ardan Ali*

*...for the Petitioner.*

*Mr. Biswabrata Basu Mallick, Ld. AGP*

*...for the State.*

*Mr. Sanjay Saha,  
Mr. Raju Mandal*

*...for the Respondent No.9.*

1. The writ petitioner, the respondent State and its instrumentalities and the respondent no.9/WBMDTCL are represented by their respective learned advocates. On behalf of the respondent State Mr. Biswabrata Basu Mallick has submitted a report as prepared by the respondent no.4 authority, which is taken on record.
2. By filing the instant writ petition the petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities, more specifically against the respondent no.3 authority herein commanding him to extend the period of lease for a further term of five years less ten days as executed in favour of the writ petitioner on 17.06.2019 with a further prayer for quashing and/or setting aside the order dated 20.06.2024 as passed by the DL & LRO, Bankura as well as the orders dated 29.11.2024 and 03.12.2024 as

passed by the Commissioner, Medinipur Division, that is, the respondent no.2 herein, copies of which have been annexed at page nos.133 to 138 and 150 to 155 of the instant writ petition respectively.

3. At the time of hearing Mr. Islam, learned advocate for the writ petitioner submits before this Court that undisputedly a deed of lease dated 04.06.2019 was executed in favour of the writ petitioner by the respondent no.3 authority for excavation of sand from Sand Block 0121DM026 located in Plot No.1595 in Mouza – Panchpara, J.L. No.60, P.S. Patrasayer.
4. It is further submitted that on 26.11.2019 the possession of the mining site was handed over to the writ petitioner after registration of the deed of lease on 17.06.2019.
5. It is further submitted that on 04.12.2020 the respondent authorities started issuing transit challan to the writ petitioner for the purpose of transportation of sand and as a result whereof the writ petitioner could start his work of excavation of sand only from 04.12.2020, since without transit challan he cannot transport the excavated sand.
6. At this juncture attention of this Court is drawn to page no.109 of the instant writ petition being a copy of notice dated 14.12.2020 as issued by the respondent no.4 authority addressed to the writ petitioner company directing the writ petitioner company to

show cause regarding alleged illegal sand mining activity.

7. It is further contended by Mr. Islam that with effect from the day of issuance of notice to show cause the mining operation of the writ petitioner was suspended by the respondent authorities.
8. Drawing attention to page no.110 of the instant writ petition, being a copy of letter dated 30.12.2020 it is submitted by Mr. Islam that under cover of the said letter dated 30.12.2020 the writ petitioner duly replied to the said show cause notice denying all the allegations as levelled against the writ petitioner.
9. It is further submitted that soon thereafter the writ petitioner time and again submitted several representations to the respondent authorities for withdrawal of the order of suspension and for allowing the writ petitioner company to initiate the work of excavation over the leased out plot, but all efforts of the writ petitioner went into vein since the respondent authorities never responded to such representations.
10. It is further submitted that finding no other alternative the writ petitioner approached a coordinate Bench of this Court by filing WPA No.7504 of 2024 which came to be disposed of on 21.05.2024 by the said coordinate Bench directing the respondent authorities to consider the comprehensive

representation of the writ petitioner within a specified period.

11. It is submitted that from page nos.133 to 138 of the instant writ petition it would reveal that the respondent no.4 authority while passing its reasoned order dated 20.06.2024 made no venture to ventilate the genuine grievance of the writ petitioner and taking shelter of West Bengal Sand Mining Policy, 2021 and West Bengal Minor Minerals (Auction) Rules, 2016 declined to grant extension of the period of lease as prayed for.
12. It is further submitted by Mr. Islam that challenging the said order dated 20.06.2024 as passed by the respondent no.4 authority the writ petitioner approached the respondent no.2 authority in appeal. However, the respondent no.2 authority vide its order dated 03.12.2024 most mechanically affirmed the order of the respondent no.4 authority and thus, dismissed the appeal of the writ petitioner.
13. It is submitted by Mr. Islam that both the respondent no.4 and respondent no.2 authorities while passing the orders under challenge have miserably failed to visualize that basically for the inaction and/or non-action on the part of the respondent authorities the writ petitioner could not continue the mining operation in terms of the deed of lease dated 04.06.2019 as registered on 17.06.2019 for the entire period of lease except ten days and, therefore, the writ

petitioner is entitled to the relief/reliefs as prayed for in the instant writ petition.

14. Per contra, Mr. Basu Mallick, learned Additional Government Pleader appearing on behalf of the State respondents in course of his submission draws attention of this Court to page nos. 5 and 6 of the report as submitted today. It is submitted by Mr. Basu Mallick that during a joint raid programme it has been noticed that the writ petitioner company was carrying on mining activity beyond the leased out sand block area. It is further submitted that during the self-same joint raid programme it was also noticed that the writ petitioner most illegally constructed a wooden bridge over the riverbed obstructing free flow of river water. It is submitted by Mr. Basu Mallick that for the aforementioned reason, the respondent State and its instrumentalities are perfectly justified in issuing the show cause notice.
15. Mr. Saha, learned advocate appearing on behalf of the respondent no.9 authority adopted the argument of Mr. Basu Mallick. It is further contended by Mr. Saha that there is hardly any scope to interfere with the orders under challenge in view of the fact that, both the respondent no.2 and respondent no.4 authorities in their respective orders rightly interpreted the provisions of West Bengal Minor Mineral (Concession) Rules, 2016, West Bengal Minor Mineral (Auction) Rules, 2016, West Bengal Sand Mining

Transportation, Storage and Sale Rules, 2021 and West Bengal Sand Mining Policy, 2021.

16. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that admittedly under the various provisions of the aforementioned Rules as quoted supra, there is hardly any scope for extension of the period of lease as rightly argued by Mr. Basu Mallick and Mr. Saha.
17. However, on careful perusal of the entire factual aspects as involved in the instant writ petition, it reveals to this Court that undisputedly on and from 14.12.2020 the mining operation of the writ petitioner came to a standstill pursuant to a notice to show cause *vis a vis* work of suspension as issued by the respondent no.4 authority. Sufficient materials have been placed before this Court to substantiate that on receipt of such show cause notice the writ petitioner company under cover of its letter dated 30.12.2020 replied to such show cause.
18. On being asked by this Court, learned advocate for the respondent State however, could not justify as to what prompted the respondent no.4 authority to take an appropriate decision on the basis of such reply to such show cause.
19. It rather appears to this Court that after receipt of reply to the show cause and even after submission of several representations by the writ petitioner the

respondent no.4 authority went for an eternal slumber and for his inaction and/or non-action the lease period expired.

20. This Court is conscious regarding Rule 50 of the aforementioned Rules of 2016 which deals with penalty in case of illegal mining and/or unauthorized storing and transportation of mines and minerals. No material could be placed before this Court that what prevented the respondent authorities to impose any penalty upon the writ petitioner company in the event he is not at all satisfied with the reply dated 30.1.2020.

21. Such being the position, this Court finds no justification at all in the orders under challenge as passed by the respondent no.4 and respondent no.2 authorities whereby and whereunder the entire burden was shifted to the writ petitioner for allowing the lease to be expired for no fault of the writ petitioner.

22. This Court, thus, finds sufficient merits in the instant writ petition.

23. Consequently the order dated 20.06.2024 as passed by the respondent no.4 authority as well as the order dated 03.12.2024 as passed by the respondent no.2 authority are hereby quashed and set aside.

24. Consequently the respondent no.4 authority is hereby directed to issue an order for extending the period of deed of lease as executed on 04.06.2019 and as

registered on 17.06.2019 for a period of five years less ten days in respect of the aforementioned leased out sand block.

25. The order as indicated in the foregoing paragraphs shall have to be issued by the respondent no.4 authority within 15 working days from the day of communication of the server copy of this order.

26. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent no.4 authority for his immediate compliance.

27. The respondent no.4 is hereby directed to act on the server copy of this order.

28. The time limit for issuance of order of extension of the period of lease by the respondent no.4 as indicated in the foregoing paragraph is mandatory and peremptory.

29. With the aforementioned observations the instant writ petition being WPA 11031 of 2025 is allowed and disposed of.

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

**(Partha Sarathi Sen, J.)**