

May 22, 2025
Sl. No.7
Court No.19
s.biswas

WPA 11121 of 2025

Sanjib Barui

vs.

The State of West Bengal and others

Mr. Sourav Sen, Sr. Adv.
Mr. Jayanta Kr. Mandal
Mr. Sayantan Rakshit
Ms. Adrisnata Chakraborty
Ms. Subhasri Chatterjee

... for the petitioner

Mr. Vivekananda Bose
Mr. Sutanu Chakrabarti

... for the State

Mr. Sanjay Saha
Mr. Raju Mondal

... for the respondent no.6

1. The affidavit of service as filed today in court is taken on record.
2. Leave is granted to the learned advocate-on-record of the petitioner to correct the cause title especially in respect of the respondent no.6.
3. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities for taking appropriate action towards issuance of environmental certificate as prayed for by the writ petitioner.
4. In course of hearing, Mr. Sen, learned Senior Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this court to page no.73 to 74 of the instant writ petitioner being a copy of the letter dated 01.05.2025 as written by the writ petitioner addressed to the respondent no.8 authority

requesting him to grant environmental clearance certificate.

5. It is further submitted that after grant of lease for extraction of sand from the riverbed, the writ petitioner vide Memo dated 24.08.2016 as issued by the respondent no.5 authority, was prevented from doing the work of excavation and/or extraction.
6. It is submitted that from page nos.66 and 67 as well as from the other annexures of the instant writ petition, it would reveal that the writ petitioner was practically compelled to move from pillar to post for getting assistance for obtaining environmental clearance certificate, which is now become necessary for effecting the work of excavation.
7. It is thus submitted that an appropriate writ may be issued against the respondent authorities more specifically against the respondent no.8 herein to consider the writ petitioner's representation dated 01.05.2025 in accordance with law within the specific time.
8. In course of his submission, Mr. Sen places reliance upon the judgment dated 08.04.2025 as passed by this court in WPA 1539 of 2025 (*Mallika Biswas @ Mallicka Biswas vs. The State of West Bengal & Ors.*). It is submitted by Mr.

Sen that in a similar case this court passed an appropriate order in favour of the writ petitioner.

9. Per contra, Mr. Bose, learned advocate appearing for the State, in course of his submission draws attention of this court to page no.61 of the instant writ petition being a copy of the aforementioned Memo dated 24.08.2016 as issued by the respondent no.5 authority. It is submitted that within four corners of the instant writ petition, the writ petitioner has made no averment with regard to delay committed by him in approaching the respondent no.8 authority as well as any other forum for getting environmental clearance certificate.

10. It is further submitted by Mr. Bose that on account of unexpected delay and laches on the part of the writ petitioner, the writ petitioner is not entitled to any relief as prayed for. It is submitted that in the meantime, the relevant rule has also been changed.

11. Mr. Mondal, learned advocate on behalf of the respondent no.6, practically adopts the version of Mr. Bose.

12. Such contention is however opposed by Mr. Sen. It is submitted by him that there is no period of limitation in filing the writ petition.

13. On careful consideration of the entire materials as placed before this court and after hearing the

learned advocates for the contending parties, this court is in agreement with the submission of Mr. Sen that it is the settled principle of law that there cannot be any period of limitation in approaching a court exercising plenary jurisdiction under Article 226 of the Constitution of India, in case of violation of fundamental right as well as Constitutional right of its citizen.

14. However, it cannot be overlooked that a writ which is highly prerogative in nature is purely discretionary and such discretion is to be exercised judicially and with caution.

15. It is trite law that in the event the court exercising plenary jurisdiction under Article 226 of the Constitution of India finds unexplained inordinate delay and laches on the part of the writ petitioner, this court in exercise of its judicial discretion may refuse to grant relief to the writ petitioner to the petitioner though he is entitled.

16. Coming to the factual aspects of this case, if I look to the copy of the memo dated 24.08.2016 as has been annexed at page 61 of the instant writ petition, it would reveal that after execution of the deed of lease, the writ petitioner was prevented from doing the work of extraction and/or excavation of sand by the respondent no.5 authority for some reason or other. Materials have been placed before this court that the writ

petitioner approached the self-same authority seeking assistance of environmental clearance on 03.10.2024 that is more than eight years after issuance of the Memo dated 24.08.2016.

17. In course of his submission, though Mr. Sen made an endeavour to justify the action of the writ petitioner, however on close scrutiny of the entire materials, this court is of the considered view that the writ petitioner has miserably failed to justify as to why there occurred eight years' delay in approaching the appropriate authority for obtaining the environmental clearance certificate.

18. In considered view of this court, as rightly pointed out by Mr. Bose, that the delay and laches on the part of the writ petitioner could not be explained properly and thus, this court considers that on account of such and also in view of the fact that the relevant rule regarding Minor Minerals Act has already been changed, this court ought not to have passed a favourable order in favour of the writ petitioner.

19. In view of the discussion made hereinabove, WPA 11121 of 2025 is dismissed. There shall be no order as to costs.

20. 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.)

