

26.03.2025
Sl. No. 26
g.b.
Court No.02

W.P.A. 13320 of 2024

Narayan Chandra Maity
-Vs-
The State of West Bengal & Ors.

Mr. Balailal Sahoo
Mr. Manoranjan Mahata
.....*For the Petitioner*
Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Ms. Suchana Banerjee
.....*For the State Respondents*

Affidavit of service filed in court today
is taken on record.

Mr. Balailal Sahoo, learned advocate
with Mr. Manoranjan Mahata, learned advocate
appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned
senior State advocate with Ms. Suchana
Banerjee, learned advocate appears for the State
respondents.

The petitioner claims to be the
lessee/owner in respect of a plot of land morefully
and particularly described in paragraphs 3 to 5 to
the writ petition. The petitioner initially applied for
excavation of earth from the said land.
Permission was granted upon compliance of all

formalities. The petitioner deposited Rs.66,300/- on **May 31, 2016**. The authority granted permission to the petitioner for extraction of earth from his own land. The permission was valid till **June 30, 2016**.

Subsequently after expiry of the said period petitioner applied for further extension. By an order dated **January 17, 2019** at page 53 to the writ petition, said extension was allowed by the authority.

The records show that the petitioner could not utilize the said extended period for excavation of earth from his own land. As a result the said extended period further expired. The petitioner applied for further extension. Such prayer for extension was rejected by the authority by its communication dated **March 2, 2020** at page 88 to the writ petition. The reason for rejection mentioned therein was that since the petitioner could not utilize the opportunity, no further extension was granted.

The petitioner thereafter submitted another application seeking extension of permission which

was also rejected by a communication dated **March 7, 2024** at page 91 to the writ petition by the authority on the same plea that since the petitioner did not utilize the opportunity, the prayer for extension was rejected.

Challenging the said decision dated **March 7, 2024** the petitioner has filed the instant writ petition praying for further extension of permission to enable the petitioner to excavate the earth from his own land.

On perusal of the materials on record and upon considering the submissions made on behalf of the parties, this Court is convinced that despite the permission being granted in favour of the petitioner to excavate earth from his own land, the petitioner did not avail of the said opportunity and could not utilize the same. Hence, repeated applications were made by the petitioner seeking extension, were rejected by the authority as stated above.

This court finds no infirmity in the decision making process of the authority. As the petitioner has not established that the petitioner has utilized

the opportunities and sought for further extension in the meanwhile and the petitioner submits that the situation was beyond his control and excavation of earth was not possible, as the petitioner was prevented. However, no supportive materials has been produced in the writ petition.

In view of the above, the decision for **rejection** in granting extension by the authority stands **affirmed** and not interfered with.

However, this order shall not preclude the petitioner to apply afresh before the appropriate jurisdictional authority seeking fresh permission for extraction of earth from his own said land, subject to compliance with all necessary formalities and legal requirements.

In the event, such an application is submitted by the petitioner, the jurisdictional authority shall dispose of the same positively within a period of **four weeks** from the date of receiving such application in accordance with law and after granting an opportunity of hearing to the petitioner and then by passing a reasoned order.

It is made clear that this order shall not create any right or equity in favour of the petitioner if the petitioner is otherwise found ineligible to receive such permission from the jurisdictional authority in law.

It is made clear that, whatever amount has been paid by the petitioner as stated above or otherwise, the same shall have no bearing, if the State authorities grant fresh permission to the petitioner for excavation of earth from his own land and in that event the petitioner shall have to comply all the necessary formalities afresh in accordance with law.

The petitioner if he is permitted in law may proceed to recover the amount deposited by him strictly in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the observations and directions, the writ petition **WPA 13320 of 2024** stands disposed of, without any order as to costs.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties on urgent basis after compliance of all necessary formalities.

(Aniruddha Roy, J.)