

S/L 11
19.05.2025
Court. No. 19
Suwayan

WPA 16827 of 2024

Tapas Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Susanta Rakshit
Mr. Khairul Alam

...for the petitioner.

Mr. Supratim Dhar, Sr. Adv.
Ms. Subhra Nag

...for the State.

Mr. Sanjay Saha
Mr. Raju Mondal

...for the respondent no. 5.

1. The affidavit-of-service as filed today is taken on record.
2. At the time of hearing learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 24 and 25 of the instant writ petition being a copy of the order dated 22.12.2023 as passed by a co-ordinate Bench in WPA 26089 of 2023 whereby and whereunder the said Court directed the respondent no. 4 therein to consider the representation of the writ petitioner in accordance with law for grant of short term mining lease.
3. Drawing attention to paragraph no. 10 of the instant writ petition it is submitted on behalf of the writ petitioner that in terms of the said order and judgment dated 22.12.2023 the respondent no. 4/authority while rejecting the representation of the writ petitioner came to a finding that the writ petitioner's application for short term mining lease cannot be considered and the

same was thus disallowed. At this juncture, it is submitted on behalf of the writ petitioner that soon thereafter the writ petitioner filed a review petition but the review authority sat tied over the matter and did nothing.

4. It is thus submitted that instant writ petition may be allowed in terms of the prayers made in the instant writ petition.
5. *Per contra*, Mr. Dhar, learned Senior Advocate appearing on behalf of the respondents/State draws attention of this Court to Rule 51 of the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as the 'said Rules of 2016'). It is submitted by Mr. Dhar that Rule 51 of the said Rules of 2016 clearly postulates for preferring an appeal before the Divisional Commissioner by an aggrieved person against the order of the district authority.
6. Mr. Saha, learned Advocate appearing on behalf of the respondent no. 5 adopts the argument of Mr. Dhar.
7. On careful consideration of the entire materials as placed before this Court, this Court is of considered view that admittedly in the said Rules of 2016 there is an enabling provision for filing an appeal that is Rule 51 of the said Rules of 2016.
8. Learned Advocate for the writ petitioner has miserably failed to satisfy this Court as to what prevented the writ petitioner to approach the appellate authority instead of approaching this Court by filing a writ petition under Article 226 of the Constitution of India.

9. It is trite law that in the event of availability of alternative efficacious statutory remedy, the writ court should not exercise its plenary jurisdiction which is highly prerogative in nature and based on equitable principle unless it is shown that the order which is subject matter of challenge has been passed without following the principle of natural justice and/or the order is based on such a provision of law which has been declared ultra vires.
10. The said view was taken by the Hon'ble Supreme Court in the case of ***U.P. State Spinning Co. Ltd vs. R. S. Pandey & Anr.*** reported in **2005 (8) SCC 264**.
11. In view of the discussion made hereinabove and in view of the fact that no cogent reason has been assigned by the writ petitioner for not availing the alternative efficacious statutory remedy, this Court considers that the instant writ petition ought not to be entertained.
12. Accordingly, the instant writ petition being WPA 16872 of 2024 is dismissed.
13. There shall be, however, no order as to costs.
14. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)