

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

FMA 1242 of 2025
With
CAN 1 of 2025

Sanjib Barui
Vs.
The State of West Bengal and Ors.

For the appellant	:	Mr. J. K. Mandal, Mr. Sayantan Rakshit, Adv.
For the respondent no. 6	:	Mr. Sanjay Saha, Mr. Raju Mondal, Adv.
For the State respondents	:	Sk. Md. Galib, Ld. Snr. Govt. Adv.
Heard on	:	September 15, 2025.
Judgment on	:	September 15, 2025.

Sabyasachi Bhattacharyya, J.:

1. The present challenge has been preferred against an order whereby the learned Single Judge dismissed the writ petition

of the present appellant. The grievance of the appellant is that the appellant approached the respondent authorities repeatedly, after an order was passed by the Hon'ble Supreme Court in the year 2016 making it mandatory for environmental clearance to be obtained for operating sand mining, for learning about the modalities and procedure for applying for an environment certificate in terms of the judgment of the Supreme Court. However, allegedly there was utter inaction on the part of the respondent authorities in that regard, which compelled the petitioner to approach the writ court.

2. Learned counsel submits that under similar circumstances, the same learned Single Judge who passed the impugned order had granted relief to other similarly-placed persons in other writ petitions by directing the respondent no. 8 to be approached by the said petitioners for the purpose of learning/clarification about the modalities and for facilitation of the petitioners therein to apply for environment certificate for the continuous running of their sand mines.
3. Learned counsel places reliance on *Radharaman Constructions and Marketing Private Limited & Anr. Vs. The*

State of West Bengal & Ors., an unreported judgment of a learned Single Judge, in support of such proposition.

4. Learned counsel further cites *Mallika Biswas @ Mallicka Biswas vs. The State of West Bengal & Ors.*, submitting that in the said case, although the sand mining lease deed had expired, the petitioner was granted relief to obtain environmental certificate.
5. Learned counsel also places reliance on an unreported judgment of a learned Single Judge of this court in the matter of *Sri Basudeb Pal vs. The State of West Bengal & Ors.*, where similar relief to approach the appropriate authority was granted.
6. Learned Senior Government Advocate submits that the petitioner's lease deed had expired in the year 2017. As such, there is no scope of grant of any further environmental clearance to the petitioner on the strength of such expired sand mining lease.
7. That apart, the delay of about eight years in the petitioner approaching the authorities has been sought to be explained by the appellant/writ petitioner by relying on alleged approaches made by the writ petitioner/appellant to the

respondent authorities, which has not been substantiated on facts.

8. As such, the impugned order is supported by learned Senior Government Advocate.
9. Learned counsel appearing for the respondent no. 6 submits that in *Radharaman Constructions*, the facts were different. Due to a road-block, which was covered by memoranda issued by the appropriate authorities, the sand mining lease could not be properly utilized by the leaseholder, which was taken into consideration in granting relief to the petitioner therein. As opposed thereto, it is submitted that in the present case, there was no occasion for the petitioner to be prevented in any manner from exercising his leasehold rights regarding the sand mining lease.
10. Upon considering the submissions of parties, we find that a lease deed cannot be rewritten by the court.
11. Since the sand mining lease deed of the petitioner/appellant itself expired in the year 2017, no amount of applications by the petitioner can create a right in favour of the petitioner to get an environmental clearance for the purpose of exercising rights under such expired lease.

12. We do not find in any of the cited cases that any such proposition was laid down. In any event, even if such relief was granted in respect of any other writ petitioner, negative equality, contrary to law and the contract between the parties, cannot be enforced by the writ court.
13. Insofar as the delay in approaching the authorities on the part of the petitioner/appellant is concerned, we find from the records that there is nothing to substantiate what prevented the appellant from approaching the respondent authorities for specific clarification in writing regarding environmental clearance between 2016, when the Supreme Court's order was passed (at which point of time the petitioner's sand mining lease was still subsisting) and 2024, when the first written representation came to light. The specious plea, of the petitioner having verbally been assured by the respondent authorities and/or having approached the latter, has not been substantiated in any manner, although it was the burden of the petitioner/appellant to prove such averments.
14. Thus, we do not find, particularly within the constraints of an intra-court appeal, any illegality or irregularity on the part of the learned Single Judge in passing the impugned order, whereby

the petitioner's writ petition was dismissed primarily on the ground of huge delay of about eight years in approaching the respondent authorities.

15. As recorded above, we also supplement the other ground to the impugned order to the effect that since the appellant's sand mining lease deed itself has expired in the year 2017, there cannot arise any cause of action for grant of any environmental clearance for exercising rights under the said expired lease.
16. Accordingly, FMA 1242 of 2025, along with CAN 1 of 2025, are dismissed on contest without, however, any order as to costs.
17. The parties shall act on the server copy of this order, duly downloaded from the official website of this court.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)