

N.22Sl
151/CL

WPA 16436 of 2023

Basudev Majhi

-vs-

The State of West Bengal & Ors.

17.09.2025
SL-06
Ct.19
(S.R.)

Mr. Pallav Chatterjee
Mr. Monajit Chakraborti ... for the petitioner.

Mr. Ashim Kumar Ganguly, AGP
Ms. Jyotsna Roy Kukherjee ... for the State.

Mr. Sanjay Saha
Mr. Raju Mondal ... for the respondent no.2.

1. The writ petitioner, the respondent/State and the added respondent no.7 are represented by their respective counsels.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities commanding them to allot the writ petitioner an alternative sand block having equal deposit falling within the potential area zone, as has been prayed for under cover of his representation dated 20.02.2023, as submitted by the writ petitioner with the respondent no.3/authority.
3. At the time of hearing, Mr. Chakraborti, learned advocate appearing on behalf of the writ petitioner submits before this Court that from the materials, as placed before this Court, it would reveal that the writ petitioner, being the highest bidder in the e-auction bearing ID No.2018_WB-1192, as conducted on

01.12.2018 for grant of mining lease for sand in sand block Jamalpur/Kansra/1345(P)/B located in Plot No.1345(P) in Mouza – Kansra, J.L. No.44, P.S. Jamalpur District Purba Bardhaman over an area of 4.3 acres (1.74 hectares) was granted letter of intent on 14.01.2019.

4. Drawing attention of this Court to page no.19 of the instant writ petition, it is submitted by Mr. Chakraborti that by a memo dated 14.02.2021, the Chief Mining Officer, Government of West Bengal granted approval of mining plan, as submitted by the writ petition. Attention of this Court is drawn to page nos.24 to 26 of the instant writ petition, being a copy of the minute dated 27.12.2021, as held in the meeting of the members of SEIAA as well as a copy of the order dated 17.02.2022, as passed by the department of Industry, Commerce and Enterprises, Government of West Bengal. It is submitted by Mr. Chakraborti that though in the minutes of the said meeting of the SEIAA, as held on 27.12.2021, it was decided that SEIAA would not process any sand mining plan for any individual or agency except the added respondent no.7, however, by issuing the order dated 17.02.2022, the respondent authorities had decided that in case of successful bidders, who have deposited one third of bid money would be allowed to apply for environment clearance by submitting

application with the SEIAA within 31.03.2022 and further such application would be processed as per existing guidelines and, thereafter, lease deed would be executed as per process as mentioned in the said order.

5. It is submitted by Mr. Chakraborti that pursuant to the said order dated 17.02.2022, the writ petitioner submitted his application with the SEIAA on 16.03.2022 for obtaining environmental clearance. However, the SEIAA in terms of the minutes of the meeting, as held on 01.02.2023 most illegally and illogically declined to grant environmental clearance to the writ petitioner for the reason best known to them.
6. At this juncture, Mr. Chakraborti took me to page no.68 of the instant writ petition, being a copy of the letter dated 17.01.2023, as has been written by one Dr. Tuhin Ray, who is a consultant accredited to NABET, as per requirement of the SEIAA whereby and whereunder the SEIAA was intimated that the environmental clearance application as has been submitted by the writ petitioner was uploaded by him in an appropriate manner, and, therefore, requested the SEIAA to reconsider the said decision as has been taken on 01.02.2023.
7. Drawing attention to page no.83 of the instant writ petition, Mr. Chakraborti further contended that under cover of a letter dated 20.02.2023, the writ

petitioner also approached to the respondent no.3/authority for allotment of an alternative plot within potential zone as per approved DSR. However, such representation was also not considered by the said respondent no.3/authority for the reasons best known to him.

8. It is, thus, submitted by Mr. Chakraborti that from the copy of the minutes of the meeting dated 01.02.2023, it would reveal that the SEIAA declined to grant environmental clearance to the writ petitioner in respect of the allotted plot basically on the ground that the said plot of land does not fall within the potential mining zone. It is, thus, submitted by Mr. Chakraborti that since the respondent/State and its instrumentalities have earmarked a wrong plot, the writ petitioner could not get his environmental clearance. It is, thus, submitted by Mr. Chakraborti that for no fault of the writ petitioner, the writ petitioner has to suffer on account of inaction and/or non-action of the respondent authorities, more specifically, the respondent nos.2 and 3/authorities herein and, therefore, appropriate relief and/or reliefs may be granted to the writ petitioner in terms of the prayers as made in the instant writ petition.
9. *Per contra*, Mr. Ganguly, learned Additional Government Pleader appearing on behalf of the respondent/State draws attention of this Court to the

report, as submitted by the respondent nos.2 and 3/authorities and as has been affirmed on 13.06.2025. It is submitted by Mr. Ganguly that from the materials, as placed before this Court, it would reveal that the writ petitioner could not get environmental clearance for his own fault, as would be evident from the copy of the minutes of the meeting dated 01.02.2023 and, therefore, no fault can be attributed to the respondent authorities as has been wrongly alleged.

10. It is further argued by Mr. Ganguly that the terms and conditions of the letter of intent, as has been issued to the writ petitioner, clearly indicates that successful bidder shall have to submit environmental clearance with the SEIAA and, thus, the writ petitioner is duty bound to submit environmental clearance within due time. It is further argued by Mr. Ganguly that change of potential zone occurs on account of change of river's course and which is why a clear indication is given in Clause 1.3 of the bid document that prior to participation in the bid, the bidders are at liberty to undertake the site visit to Concession Area at their own cost and risk.
11. It is further submitted by Mr. Ganguly that prayer for allotment of an alternative plot, as made by the writ petitioner, cannot be entertained since as per the provisions of the West Bengal Minor Minerals

Concession Rules, 2016 read with West Bengal Minor Mineral Auction Rules, 2016 allotment of plot for mining operation is being granted through auction only. It is, thus, submitted by Mr. Ganguli that the writ petitioner is not entitled to the relief/reliefs as prayed for.

12. Mr. Saha, learned advocate appearing on behalf of the added respondent no.7 adopted the argument of Mr. Ganguly. It is also submitted by Mr. Saha that at best the writ petitioner is entitled to get back the money without interest as deposited by him prior to obtaining the letter of intent.
13. Such contention is, however, opposed by Mr. Chakraborti. Drawing attention to Rule 5 of the West Bengal Minor Mineral (Auction) Rules, 2016, it is submitted by Mr. Chakraborti that the Rule 5 of the said Auction Rules of 2016 clearly mandates that it is the respondent nos.2 and 3/authorities, who are responsible for identification and demarcation of the area where a mining lease is proposed to be granted through auction and on account of their failure, the writ petitioner should not suffer.
14. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it reveals that in its meeting dated 01.02.2023 the SEIAA while rejecting the application for environmental clearance

observed thus: -

“SEAC observation and recommendations:

³⁵₁₇ *The PP did not engage any NABET accredited environmental consultant and appeared himself for the EC presentation.*

³⁵₁₇ *Based on the submission and presentation made by the PP, the SEAC observed that the plot area for the proposed project (geo-coordinates) as reported in the approved Mining cum Progressive Mine Closure Plan does not fall within the potential mining zone recorded in the approved District Survey Report (DSR) of Purba Bardhaman district. Also, the PP has not uploaded valid LOI, original LOI mentioning the plot nos. showing the exact location and cluster certificate from the competent authority, and other related documents.*

The committee (SEAC), therefore, recommended that the proposed project, in its present form, cannot be considered for further processing of Environmental Clearance.”

15. It appears to this Court that such observations of SEIAA was not challenged by the writ petitioner in any Court of law and on the contrary from page no.68 of the instant writ petition, it would reveal that the environmental consultant, as appointed by the writ petitioner, made a representation with the SEIAA indicating that he is a consultant accredited NABET and NABL and further he has uploaded environmental clearance application following the notification dated 15.01.2016.

16. At this juncture, if I look to the report of the respondent/State, it appears to this Court that it is the specific stand of the respondent nos.2 and 3/authorities that while issuing the letter of intent, it was categorically indicated to the successful bidder that lease would be granted to him subject to obtaining environmental clearance from the SEIAA.
17. From the said report, as submitted by the respondent nos.2 and 3/authorities, it would reveal that sufficient explanation has been given regarding change of potential zone, which is a natural phenomenon because of the change of river's course especially when the time gap between auction and the preparation of DSR was almost three and half years. It further reveals from the said report that as per the provisions of the West Bengal Minor Mineral Concession Rules, 2016, West Bengal Mining Mineral Auction Rules, 2016 as well as West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021 no alternative sand block can be allotted without the process of auction.
18. Considering chronology of events, as discussed in the forgoing paragraphs, this Court, thus, finds no much illegality and/or irregularity on behalf of the respondent nos.2 and 3/authorities in not considering the writ petitioner's representation dated 20.02.2023 for allotment of alternative plot basically on account of

adverse finding of the SEIAA, on account of which the writ petitioner could not get the environmental clearance, which is mandatory in initiating mining operation by executing a registered deed of lease.

19. It further appears to this Court that the respondent nos.2 and 3/authorities have given sufficient explanation with regard to the change of potential mining zone for the reasons, as discussed hereinabove, especially when the time gap between the date of auction and date of preparation of DSR is too long i.e. more than three and half years.
20. In view of such, this Court, thus, finds no much merit in the instant writ petition.
21. Accordingly, WPA 16436 of 2023 is dismissed.
22. Before parting with, this Court further directs the respondent nos.2 and 3/authorities to refund the entire money as has been deposited by the writ petitioner pursuant to e-auction dated 01.12.2018 together with 9% interest per annum from the date of actual deposit till the actual payment.
23. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent nos.2 and 3/authorities.
24. The respondent nos.2 and 3/authorities are hereby directed to act on the basis of the server copy of this order.
25. There shall, however, be no order as to costs.

26. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)