

S/L 19
10.09.2025
Court. No. 19
Sourav

WPA 17353 of 2025

**Radharaman Constructions and Marketing
Private Limited & Anr.**

Vs.

The State of West Bengal & Ors.

*Mr. Asoke Kr. Banerjee, Sr. Adv.
Mr. Arijit Dey*

...for the petitioners.

*Mr. Supratim Dhar, Sr. Adv.
Mr. Santimay Bhattacharyya*

...for the State.

Mr. Sanjay Saha

...for the respondent no. 6.

1. On behalf of the respondent no. 4, a report supported by affidavit is filed after serving a copy of the same to the learned advocate for the writ petitioners.
2. The report as filed today is taken on record.
3. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondents/authorities, more specifically, against the respondent no. 6/authority to issue mining challan in favour of the writ petitioners in respect of leased out plot of land, particulars of which have been mentioned in paragraph no. 3 of the instant writ petition for the remaining 1,40,15,720.15 Cft. of sand as per Clause 3(b) of Part-VII of the lease agreement dated 17.11.2017 as has been executed by the respondent no. 3/authority in favour of the writ petitioners.
4. At the time of hearing, Mr. Banerjee, learned senior advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to the order

dated 01.09.2025 as passed by this Court in the instant writ petition. It is submitted by Mr. Banerjee that from the materials as placed before this Court as well as from the earlier order dated 01.09.2025, it would reveal that pursuant to a co-ordinate Bench's judgment dated 04.12.2023 as passed in WPA 9583 of 2023, the period of lease as has been executed in favour of the writ petitioners was extended for a period of 11 months, more specifically, from 25.03.2021 to 22.02.2022.

5. Mr. Banerjee further submits that though pursuant to the said judgment dated 04.12.2023, the respondents/authorities have extended the period of lease for 11 months by issuing office order dated 22.01.2024, a copy of which has been annexed at Page No. 123 of the instant writ petition but for the reasons best known to the respondents/authorities, the respondents/authorities were not issuing requisite numbers of challans for the entire period of lease.
6. Drawing attention to paragraph nos. 30, 31 and 33 of the instant writ petition, it is argued by Mr. Banerjee that from the aforementioned pleadings, it would reveal that the writ petitioners have given a clear picture with regard to their entitlement regarding remaining mining challan to the tune of 1,40,15,720.15 Cft. of sand.
7. At this juncture, Mr. Banerjee took me to paragraph nos. 16, 18 and 19 of the report as filed by the respondent no. 4/authority. It is submitted by Mr. Banerjee that for the first time in the report as filed today, the respondents/authorities have taken a plea regarding

barrier of environmental clearance as issued by the State Environment Impact Assessment Authority (SEIAA, in short) with a sole intention to frustrate the true spirit of judgment dated 04.12.2023 as passed by a co-ordinate Bench of this Court wherein the respondents/authorities were directed to grant extension of the period of lease for the period during which the writ petitioners were unable to continue mining operation i.e., from 25.03.2021 to 22.02.2022.

8. It is further submitted by Mr. Banerjee that in paragraph nos. 30, 31 and 33, the writ petitioners have given a clear picture regarding quantum of permissible amount of sand to be excavated from the leased out area in five years and further the writ petitioners have also given clear picture as to the quantum of sand which they could excavate during the period of five years. It is thus submitted that when a co-ordinate Bench directed for extension of lease for 11 months in order to compensate the loss as suffered by the writ petitioners, the plea as taken by the respondent/State and its instrumentalities regarding limit of excavation of sand to the tune of 40 lakhs Cft. instead of 1,40,15,720.15 Cft. cannot be permitted to stand.
9. It is thus submitted by Mr. Banerjee that appropriate relief/reliefs may be granted to the writ petitioners in terms of the prayers made in the instant writ petition.
10. Per contra, Mr. Dhar, learned senior advocate appearing on behalf of the respondent/State and its instrumentalities also draws attention of this Court to

paragraph nos. 30, 31 and 33 of the instant writ petition. Attention of this Court is also drawn to Page No. 28 of the report being Annexure – G, being a copy of the Stock ID Creation in the name of the writ petitioners. It is argued by Mr. Dhar that in paragraph nos. 16 and 18, it has been stated on behalf of the respondent/State that for the reasons best known to the writ petitioners, the writ petitioners has suppressed the material fact regarding environmental clearance as issued by the District Environment Impact Assessment Authority (DEIAA, in short) though it has been wrongly typed as SEIAA in the said report.

11. At this juncture, Mr. Dhar further draws attention of this Court to Page No. 39 of the instant writ petition, being a copy of the environmental clearance dated 25.05.2017 as issued by the DEIAA wherefrom it would reveal that the maximum limit for production i.e., mining of sand is 1,13,270.40 Cubic Meter equivalent to 40,00,144.43 Cft. of sand per annum. It is thus submitted by Mr. Dhar that accordingly, the writ petitioners are entitled to extract sand on *pro rata* basis for the extended period of 11 months which comes to 36,66,799.06 Cft. of sand in view of the environmental clearance dated 25.05.2017 as issued by the DEIAA.
12. It is further submitted by Mr. Dhar that by no stretch of imagination, the writ petitioners are entitled to extract 1,40,15,720.15 Cft. within a period of extended 11 months and in the event, the same is allowed to be done, it would be contrary to the environmental clearance

dated 25.05.2017 a copy of which has been annexed at Page No. 39 of the instant writ petition.

13. Mr. Saha, learned advocate appearing on behalf of the respondent nos. 5 and 6 adopted the argument of Mr. Dhar.
14. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that sole point which is required to be adjudicated in the instant writ petition is as to whether the writ petitioners are entitled to excavate sand to the tune of 1,40,15,720.15 Cft. in the extended 11 months period as per the calculation given in paragraph no. 33 of the instant writ petition pursuant to the judgment dated 04.12.2023 as passed by a co-ordinate Bench in WPA 9583 of 2023.
15. Mr. Banerjee in course of his argument was very vocal in saying that the co-ordinate Bench which passed the judgment dated 04.12.2023 have duly considered the plight of the writ petitioners for not carrying on the mining operation for 11 months and thus directed the respondents/authorities to extend the period of lease for a further period of 11 months to continue mining operation and, therefore, there cannot be any predicament on the part of the respondents/authorities to allow the writ petitioners to excavate sand to the tune of 1,40,15,720.15 Cft. within the extended period of 11 months and thus, the respondents/authorities are duty

bound to issue the requisite number of road challans for carrying the aforementioned quantity of sand.

16. However, it appears to this Court that the argument as advanced by Mr. Banerjee is not much convincing inasmuch as in the judgment dated 04.12.2023 as passed in WPA 9583 of 2023, a co-ordinate Bench though directed the respondents/authorities to allow the writ petitioners to continue mining operation for 11 months i.e., for the period the writ petitioners could not do the mining operation, however, by no stretch of imagination it means that while issuing the order of extension of the period of lease for 11 months, the respondents/authorities are duty bound to allow the writ petitioners to excavate sand to the tune of 1,40,15,720.15 Cft. in extended 11 months (as per calculation given in paragraph nos. 31 and 33 of the instant writ petition) defying the limit of extraction of sand per annum as fixed by the DEIAA vide its memo dated 25.05.2017.
17. From the materials as placed before this Court that in fact, the respondents/authorities had issued challan in favour of the writ petitioners for excavating 40 lakhs Cft. of sand instead of 36,66,799.06 Cft. (as per *pro rata* basis).
18. In view of the discussion made hereinabove, this Court thus finds that the respondents/authorities are no way at fault in not issuing the road challans for the excavation and carrying 1,40,15,720.15 Cft. of sand as prayed for. It rather appears to this Court that the

respondents/authorities acted in terms of the mandates of the environmental clearance authority i.e., DEIAA.

19. With the aforementioned observations, the instant writ petition being **WPA 17353 of 2025** is dismissed.
20. There shall be, however, no order as to costs.
21. 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.)