

S/L 8
28.04.2025
Court. No. 19
Sourav

WPA 19194 of 2024

**Md. Ajim Khan @ Md. AJim Ali Khan
Vs.
The State of West Bengal & Ors.**

*Mr. Sukanta Chakrabarty
Mr. Siddhartha Banerjee
Mr. Soumya Kanti Sinha
Ms. Suparna Das
Mr. Anindya Halder*

...for the petitioner.

*Mr. Chandi Charan De, Ld. AGP
Mr. Anirban Sarkar*

...for the State.

*Mr. Sanjay Saha
Mr. Raju Mondal*

...for the respondent no. 5.

1. The supplementary affidavit as filed in Court today on behalf of the writ petitioner is taken on record.
2. In this third round of litigation, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities for setting aside and/or quashing the order dated 15.02.2024 as passed by the respondent no. 3 whereby and whereunder the said respondent no. 3 while considering the representation of the writ petitioner pursuant to a judgment and order dated 06.12.2023 in WPA 16343 of 2022 as passed by a co-ordinate Bench of this Court found no merit in such representation and thus, the prayer of the writ petitioner for execution of the lease deed pursuant to grant of long term mining lease and LOI as issued on 30.11.2005 was rejected.

3. In course of hearing, Mr. Chakrabarty, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to the order under challenge as passed by the respondent no. 3. It is submitted by Mr. Chakrabarty that the said respondent no. 3 has mechanically passed the said order under challenge without considering the true spirit of the representation dated 03.07.2021 as submitted by the writ petitioner and without giving any adherence to the judgment and order dated 06.12.2023 as passed by a co-ordinate Bench in WPA 16343 of 2022. Mr. Chakrabarty further submits that in the said judgment and order dated 06.12.2023, the co-ordinate Bench though recorded that the writ petitioner has submitted all the documents as called for by the authority while issuing the said grant order dated 30.11.2005 and despite such findings, the respondent no. 3 took a contrary view which is practically a replica of an earlier order which was under challenge in the earlier round of litigation i.e., WPA 16343 of 2022.
4. In course of hearing, attention of this Court is drawn to page no. 64 of the instant writ petition being a copy of the list of documents as submitted by the writ petitioner with the respondents/authorities. It is submitted that from the said copy of the list of documents, it would reveal that the writ petitioner has submitted ten documents which has been overlooked by the respondent no. 3/authority while passing the order

under challenge. It is further submitted by Mr. Chakrabarty that while passing the order under challenge, the respondent no. 3 has also failed to visualize the true spirit and purport of the provision of Section 61 of the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as 'the said Rules of 2016' in short) as well as Rule 34 of the West Bengal Sand (Mining Transportation Storage and Sale) Rules, 2021 (hereinafter referred to as 'the said Rules of 2021' in short).

5. It is submitted that Section 61 of the said Rules of 2016 and Rule 34 of the said Rules of 2021 clearly envisage that where the applicant was issued a grant order or LOI under West Bengal Minor Minerals Rules, 2002 (hereinafter referred to 'as the said Rules of 2002' in short), the repealing of the said Rules of 2002 and the said Rules of 2016 cannot have any adverse effect on such grant and the pending application for mining lease can still be considered in accordance with the said Rules of 2002 or under Rules of 2016 subject to due compliance of the necessary conditions. It is thus submitted by Mr. Chakrabarty that the order under challenge as passed on 15.02.2024 is perverse and, therefore, appropriate relief or reliefs may be granted to the writ petitioner.
6. Per contra, Mr. De, learned AGP appearing for the respondent/State and its functionaries and Mr. Saha, learned advocate appearing on behalf of the respondent

no. 5 conjointly draw attention of this Court to page no. 37 of the instant writ petition being a copy of grant order dated 30.11.2005 as issued in the name of the writ petitioner under the said Rules of 2002. It is submitted by Mr. De as well as by Mr. Saha that on perusal of the said grant order dated 30.11.2005, it would reveal that the writ petitioner was directed to submit all the required documents within a period of six months.

7. At this juncture, Mr. De and Mr. Saha also draw attention of this Court to page no. 64 of the instant writ petition being a copy of the list of documents. It is submitted by them that from the said list of documents, it would reveal that the required documents were allegedly submitted by the writ petitioner on 13.05.2022 i.e., almost after 17 years of the issuance of the grant order dated 30.11.2005. It is submitted on behalf of the respondents/authorities that on account of such delayed submission of documents as well as on account of repealing of the said Rules of 2002 and/or the said Rules of 2016, the respondent no. 3 is very much justified in coming to a finding that the writ petitioner's representation has got no merit in the eye of law not only on account of delayed submission of documents but also on account of repealing of the aforementioned two Rules as well as on account of promulgation of the said Rules of 2021.

8. On being asked by this Court, Mr. Chakrabarty submits before this Court that from page no. 65 instant writ petition being a copy of the order dated 27.04.2022, it would reveal that a liberty was given to the petitioner by the respondent no. 3/authority to file all documents on or before 13.05.2022 pursuant to a judgment and order dated 14.03.2022 as passed in connection with WPA 1324 of 2022 i.e., in the first round of litigation.
9. It is thus submitted by Mr. Chakrabarty in course of his reply that passing of such order dated 27.04.2022 tantamounts to condonation of delay on the part of the respondent no. 3 in filing required documents by the writ petitioner pursuant to the grant order dated 30.11.2005.
10. On careful consideration of the entire materials as placed before this Court, it reveals that by a grant order dated 30.11.2005, the writ petitioner was directed by the respondent no. 3/authority to comply with certain formalities including filing of the relevant documents within a stipulated period of six months. From page no. 41 of the instant writ petition being a copy of letter dated 20.12.2005, it reveals that the writ petitioner for the reasons best known to him has submitted only three documents as rightly observed by the respondent no. 3 in his order under challenge dated 15.02.2024.
11. Admittedly, the writ petitioner submitted all the documents on 13.05.2022 i.e., after 17 years. No explanation is forthcoming on the part of the writ

petitioner as to what prevented the writ petitioner to file and/or submit the required documents within the stipulated period of six months. Though it has been submitted on behalf of the writ petitioner that in an earlier round of litigation, a co-ordinate Bench came to a finding that all documents as called for by the respondent no. 3 have already been submitted by the writ petitioner, however, in considered view of this Court such finding is of no help to the writ petitioner since in the judgment and order dated 06.12.2023, the co-ordinate Bench did not condone the delay in filing the said documents and on the contrary, the said co-ordinate Bench only recorded the factum that the writ petitioner has submitted some documents on a specified date.

12. This Court finds no merit in the submission of Mr. Chakrabarty that since an opportunity was given to the writ petitioner by the respondent no. 3/authority on 27.04.2022 to file his all documents, the delay in filing such document is deemed to have been condoned.
13. This Court has meticulously gone through the said order dated 27.04.2022. Within the four corners of the said order that is no whisper that the respondent no. 3 has made any observation with regard to the condonation of delay in submitting the documents.
14. As rightly observed by the respondent no. 3/authority that on account of delayed submission of the required documents on the part of the writ petitioner and also on

account of repealing of the said Rules of 2002 as well as the said Rules of 2016 as well as with the enactment of the said Rules of 2021, the writ petitioner is neither entitled to get any benefit of the saving Clause of Rule 61 of the said Rules of 2016 as well as the saving clause of Rule 34 of the Rules 2021.

15. This Court thus considers that the order under challenge is sufficiently reasoned and there is hardly any scope to interfere with the said order in absence of any perversity in the said order.
16. This Court thus finds no merit in the instant writ petition.
17. Accordingly, the instant writ petition being **WPA 19194 of 2024** is dismissed.
18. There shall, however, be no order as to costs.
19. 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.)