

N.22Sl
151/CL

WPA 20934 of 2024

Dinabandhu Das Bairagya

-vs-

The State of West Bengal & Ors.

08.09.2025
SL-06
Ct.19
(S.R.)

Ms. Pampa Dey (Dhaba)
Mr. Biswarup Chatterjee
Ms. Sangita Banerjee ... for the petitioner.

Sk. Md. Galibe ... for the State.

Mr. Sanjay Saha
Mr. Raju Mondal ... for the respondent no.4.

1. At the very outset, it is required to be mentioned that the instant matter has been upgraded upon mentioning by the learned advocate for the writ petitioner stating extreme urgency.
2. On behalf of the respondent/State and its instrumentalities, a report dated 13.09.2024 as prepared by the respondent no.7/authority is filed and the same is taken on record.
3. On behalf of the respondent no.4/authority, a report in the form of an affidavit is also filed. The same is also taken on record.
4. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities, more specifically, against the respondent no.5/authority commanding him to grant mining lease in favour of

the petitioner, being the partner of 'Kalimata Sand Syndicate' in respect of mouza-Ghordanga, J.L. No.29, Plot Nos.718, 719, 721, 739, 890, 912, 914, 923(P), Police Station – Patrasayer as per the Hon'ble High Court's order in W.P. No.24482 (W) of 2012 by considering the representation dated 30.11.2021 made by the petitioner.

5. At the time of hearing, Ms. Dhabal, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos.14 and 15 of the instant writ petition, being a copy of the application dated 24.06.2011, as submitted by the writ petitioner for grant of mining lease for mining minerals. Drawing attention to page nos.16 and 17 of the instant writ petition, it is further submitted by Ms. Dhabal that despite making such application and despite deposit of requisite fees, the respondent no.7/authority under cover of his memo dated 04.10.2012 rejected the writ petitioners' application dated 24.06.2011 on some flimsy grounds.
6. At this stage, Ms. Dhabal took me to page nos.18 to 24 of the instant writ petition, being a copy of the order dated 04.01.2013, as passed by a Coordinate Bench of this Court in WP 24482 (W) of 2012. It is submitted by Ms. Dhabal that from the said order dated 04.01.2013, it would reveal that the said

Coordinate Bench while disposing the said writ petition directed the respondent authorities to consider the writ petitioner's application for grant of mining lease afresh in the light of the provisions of Rule 4A(3) of the West Bengal Minor Minerals Rules, 2002 (hereinafter referred to as the 'said Rules of 2002' in short).

7. It is further submitted by Ms. Dhabal that pursuant to such order dated 04.01.2013, the respondent no.5/authority by his order dated 06.08.2013, a copy of which has been enclosed at page no.30 of the instant writ petition, directed the respondent no.7/authority to issue provisional grant order in favour of the writ petitioner in terms of the said Rules of 2002 within a period of seven days. It is further submitted by Ms. Dhabal that it is the specific case of the writ petitioner that despite passing of the order dated 06.08.2013 by the respondent no.5/authority, the respondent no.7/authority practically did nothing and, thus, finding no other alternative, the writ petitioner under cover of his representation dated 30.11.2021, a copy of which has been annexed at page nos.50 and 51 of the instant writ petition, requested the respondent nos.5 and 7/authorities to grant mining lease in respect of the aforementioned plot of land in terms of the order dated 04.01.2013 as passed in

WP No.24482 (W) of 2012 as mentioned in the forgoing paragraph.

8. It is, also submitted by Ms. Dhabal that despite receipt of the said representation dated 30.11.2021, the respondent authorities, more specifically, the respondent nos.5 and 7/authorities practically did nothing and, as such, there cannot be any predicament in granting relief to the writ petitioner in terms of the prayers made in the instant writ petition.
9. Per contra, Mr. Galib, learned senior government advocate appearing on behalf of the respondent/State and its instrumentalities at the very outset draws attention of this Court to page nos.21 to 29 of the report dated 13.09.2024 as prepared by the respondent no.7/authority. It is submitted by Mr. Galib that may be with some ulterior motive, the writ petitioner has consciously suppressed the fact that in terms of the order dated 06.08.2013 as passed by the respondent no.5/authority, provisional grant order was issued in favour of the writ petitioner for long term mining lease for a term of two years and soon thereafter on 29.05.2014, a lease dated was executed and registered in favour of the writ petitioner by the respondent no.5/authority for the purpose of excavation of minor minerals from the leased out

area, as has been mentioned in the schedule of the said deed of lease.

10. It is, thus, submitted by Mr. Galib that the previous order dated 04.01.2013 as passed by a Coordinate Bench of this Court has been duly complied with.
11. It is further submitted by Mr. Galib that from the copy of the representation dated 30.11.2011, it would reveal further that a case has been made out by the writ petitioner that one Sankar Kairi was the partner of one Kalimata Sand Syndicate wherein the writ petitioner was another partner of the said firm. However, from the order dated 06.08.2013, it would reveal that the said Sankar Kairi's application cannot be considered by the respondent authorities on account of his absence.
12. At this juncture, Mr. Galib draws attention of this Court to Rule 61 of the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as the 'said Rules of 2016', in short). It is contended by Mr. Galib that Rule 61 of the said Rules of 2016 clearly mandates that with the repeal of the said Rules of 2002, all pending applications for grant of lease as made under the said Rules of 2002, would become ineligible irrespective of its duration of pendency with a proviso that in the event an applicant has been issued a grant order and/or letter of intent (LoI, in short), then such application

would be considered under the said Rules of 2002.

13. It is, thus, submitted by Mr. Galib that since no material has been placed before this Court on behalf of the writ petitioner that any grant order and/or LoI was issued in favour of the writ petitioner, the instant writ petition is devoid of any merits and is required to be dismissed.
14. It is further submitted by Mr. Galib that as per the Rules, 2016, mining lease is granted purely on the basis of open auction.
15. Mr. Saha, learned advocate appearing on behalf of the respondent no.4/authority adopted the submission of Mr. Galib.
16. This Court has meticulously perused the entire materials as placed before this Court. This Court has also given its due consideration over the submissions of the learned advocates for the contending parties.
17. On careful consideration of the entire materials as placed before this Court, it appears to this Court that for effective adjudication of the instant *lis*, the Rules 61 and 62 of the said Rules of 2016 are required to be looked into and those are as under:

“61. Declaration of ineligibility of the pending minor mineral applications for mining lease including the applications of reclassified major minerals.- All applications for mining lease of minor minerals including the

reclassified minor minerals vide SO No. -423 (E) dated 12th February, 2015 received prior to the giving-effect to this rules irrespective of its duration of pendency shall become ineligible.

Provided that if the applicant has been issued a Grant Order or Letter of Intent (LoI) or any other Government Order requiring the alteration of applicant's position then his mining lease application may be considered after due compliance of all the necessary conditions.

62. Repeal. – (1) *The West Bengal Minor Mineral Rules, 2002, is hereby repealed.*

(2) Notwithstanding such repeal, anything done, any action taken, or any prosecution started under the said rules, shall be deemed to have been validly done or taken or started, as the case may be, under the corresponding provisions of these rules.”

18. Keeping in mind the provisions of the aforementioned Rules of 2006, if I look to the factual aspects as involved in the instant writ petition, it reveals that admittedly, sufficient materials have been placed before this Court that a co-ordinate Bench by its order dated 04.01.2013 as passed in WP 24482 (W) of 2012 directed the respondent no. 5/authority to consider his application for grant of mining lease as made under the said Rules of 2002.
19. It reveals from the materials as placed before this Court that in connection with Misc. Case No. 01 of 2013, the respondent no. 5/authority passed an

order for provisional grant of long term mining lease for two years in favour of seven persons out of which the writ petitioner is one.

20. From the submission of Ms. Dhabal, it would reveal that it is the grievance of the writ petitioner that despite passing of the said order dated 06.08.2013 the writ petitioner was neither granted provisional grant order nor long term mining lease for two years on the basis of his application dated 24.06.2011.
21. As rightly pointed out by Mr. Galib that in terms of the said order dated 06.08.2013, the respondent no. 5/authority executed a two years long term mining lease dated 29.05.2014 in favour of the writ petitioner in respect of the area particulars of which have been mentioned in the schedule of the said registered deed of lease.
22. This Court is really astonished as to what prompted the writ petitioner to suppress such factum of execution of the registered deed of lease dated 29.05.2014 pursuant to the previous order dated 04.01.2013 as passed by a co-ordinate Bench of this Court vis-à-vis the order dated 06.08.2013 as passed by the respondent no. 5/authority himself.
23. At this juncture, if I look to the representation dated 30.11.2021, it reveals to this Court that under cover of the said representation, the writ petitioner ventilated his grievance with the respondent nos. 5

and 7/authorities for non-compliance of the said order of the High Court dated 04.01.2013.

24. At the time of hearing, Ms. Dhabal, learned advocate appearing on behalf of the writ petitioner requests this Court to consider basically the prayer 'A' of the writ petition which is a prayer for issuance of writ of mandamus for grant of mining lease in favour of the writ petitioner in respect of aforementioned plot of land.
25. On careful perusal of the Rules 61 and 62 of the said Rules of 2016, it reveals that it is the clear legislative mandate that no application for grant of long term mining lease as made under the said Rules of 2002 would be considered irrespective of its duration of pendency, however, in the event, the applicant has been issued a grant order or LoI in such circumstances, such application for grant of mining lease would be considered under the said Rules of 2002.
26. On being asked by this Court on behalf of the writ petitioner, no materials could be placed before this Court to substantiate that on the basis of his earlier application as made under the said Rules of 2002, any grant order or LOI was at all issued in favour of the writ petitioner. On the contrary, it appears to this Court that question of issuing of grant order or LOI does not arise since a long term mining lease

was issued for two years in favour of the writ petitioner in compliance of the earlier order dated 04.01.2013 as passed by a co-ordinate Bench.

27. This Court thus considers that the instant writ petition is devoid of any merit and that the writ petitioner has approached this Court by suppressing material fact.
28. In view of the observations as made hereinabove, the instant writ petition being **WPA 20934 of 2024** is dismissed with cost of Rs. 25,000/- which is to be deposited by the writ petitioner mandatorily within seven days with the Law Clerks' Welfare Trust Board, failing which the department is directed to place the file before this Court for initiating a *suo motu* contempt proceeding against the writ petitioner.
29. The ACO attached to this Court is hereby directed to send down the instant file to the department for their compliance.
30. Department is further directed to forward a copy of this order to the Secretary, Law Clerks' Welfare Trust Board forthwith.
31. 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.)