

S/L 2
22.09.2025
Court. No. 19
Suwayan

WPA 20732 of 2025

Biswajit Koley
Vs.
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Dibyendu Chatterjee
Mr. Rahul Deb Goenka
Ms. Satabdi Das
Mr. Mainak Singha Barma

...for the petitioner.

Mr. Ayan Banerjee
Mr. Ahibhushan Chakrabarty

...for the State.

1. The subject matter of the instant writ petition is the order dated 17.02.2025 as passed by the Commissioner, Medinipur Division, a copy of which has been annexed at page nos. 161 to 163 of the instant writ petition.
2. By the order under challenge the said Commissioner in an appeal under Rule 51 of the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as the 'said Rules of 2016' in short) was pleased to dismiss the said appeal whereby and whereunder the order dated 21.10.2016 as passed by the District Magistrate, Bankura, the respondent no. 3 was upheld.
3. At the time of hearing, Mr. Bhattacharyya, learned Senior Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 94 and 95 of the instant writ petition being a copy of the order dated 22.12.2015 as passed in WP 29747 (W) of 2015 whereby and whereunder the

said co-ordinate Bench directed the respondent no. 3/authority herein to dispose of the application for renewal of mining lease as made by the writ petitioner within four weeks from the receipt of the copy of the said order dated 22.12.2015. It is pertinent to mention herein that the writ petitioner at that material time was continuing his mining under Rule 12(6) of the West Bengal Minor Minerals Rules, 2002 (hereinafter referred to as the 'said Rules of 2002' in short).

4. At this juncture, Mr. Bhattacharyya took me to page no. 97 being a copy of the order dated 21.10.2016 as passed by the respondent no. 3/authority whereby and whereunder the respondent no. 3/authority rejected the writ petitioner's application for renewal of grant of lease. Mr. Bhattacharyya contended that in utter disobedience of the order dated 22.12.2015 the respondent no. 3/authority did not consider the writ petitioner's application for renewal of mining lease within the stipulated time and rejected the writ petitioner's prayer for renewal of grant of mining lease taking shelter of Rule 62 of the said Rules of 2016.
5. It is contended by Mr. Bhattacharyya that while passing the order under challenge dated 17.02.2025 the jurisdictional Commissioner has failed to visualize that a favourable right occurred in favour of the writ petitioner on account of passing of the order dated 22.12.2015 by a co-ordinate Bench of this Court when the said co-ordinate Bench directed the respondent no. 3/authority to consider his application for renewal of

mining lease as per the provisions of the said Rules of 2002.

6. It is thus submitted by Mr. Bhattacharyya that the said jurisdictional Commissioner has miserably failed to visualize the sufferings of the writ petitioner on account of the inaction or non-action of the respondent no. 3/authority and for which the jurisdictional Commissioner ought to have considered that the writ petitioner's application of mining lease should have been considered under the said Rules of 2002 instead of the said Rules of 2016.
7. Such contention is vehemently opposed by Mr. Banerjee, learned Advocate appearing on behalf of the respondents/State by saying that the respondent no. 3/authority as well as the jurisdictional Commissioner have rightly applied the provisions of the said Rules of 2016, in view of the fact that on the day of passing of the orders under challenge the said Rules of 2016 was already implemented by repealing the said Rules of 2002.
8. It is further submitted by Mr. Banerjee that since as per proviso clause of Rule 61 of the said Rules of 2016 no grant order and/or Letter of Intent (LOI) was issued in favour of the writ petitioner the application for renewal of lease as made by the writ petitioner under the repealed Rules of 2002 had become ineligible.
9. Considering the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties, it reveals that the co-ordinate

Bench which passed the order dated 22.12.2015 though directed the respondent no. 3/authority to consider the writ petitioner's application for renewal of mining lease under the said Rules of 2002 within a specified period but while passing the said order dated 22.12.2015 the said co-ordinate Bench was not in contemplation that the said Rules of 2016 will be implemented with effect from 29.07.2016 whereby and whereunder the said Rules of 2002 would be repealed.

10. Admittedly they are occurred a delay on behalf of the respondent no. 3/authority to consider the writ petitioner's application within the stipulated period as mentioned in the order dated 22.12.2015 but no materials could be placed before this Court that immediately after passing of the said order dated 20.12.2015 and prior to passing of the order on 21.10.2016 by the respondent no. 3/authority, the writ petitioner approached this court and had obtained a favourable order again for considering his application for renewal of mining lease as per the repealed Rules of 2002.

11. On careful consideration of the entire materials as placed before this Court more specifically the order dated 21.10.2016 *vis-à-vis* the order dated 17.02.2025 as passed by the respondent no. 3/authority and the jurisdictional Commissioner respectively, it appears to this Court that the said two authorities while passing the reasoned order and while passing the order under appeal have rightly interpreted the provisions of Rule

61 of the said Rules of 2016 keeping in mind that on the days of passing of the said two orders the said Rules of 2016 was implemented whereby and whereunder the said Rules of 2002 was repealed by Rule 62 of the said Rules of 2016.

12. It further appears to this Court that the said two authorities also noticed that in absence of any grant order and/or LOI in favour of the present writ petitioner, the writ petitioner's application for renewal of lease as made under the said Rules of 2002 had become ineligible.

13. In view of such, this Court finds no merit at all in the instant writ petition.

14. With the aforementioned observation, WPA 20732 of 2025 is hereby dismissed.

15. However, there shall be no order as to costs.

16. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)