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DL
KC

17.09.2025
Ct.19

W.P.A. 20882 of 2025

Sri Basudeb Pal

-vs-

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya
Mr. Sushanta Kumar Rakshit

....for the petitioner.

Mr. Tapan Kumar Mukherjee
Mr. Santanu Chatterjee

....for the State.

1. The affidavit of service as filed today on behalf of the petitioner is taken on record.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ against the respondent authorities more specifically against the respondent nos. 4 and 5 authorities commanding them to extend the period of the long term mining lease as has been registered on 04.09.2019 for a further period of five years as has been specifically pleaded in paragraph no. 10 in the instant writ petition with a further prayer for setting aside the order dated 24.07.2025 as passed in Misc. Case No.

6 of 2025 by the respondent no. 4 authority.

3. At the time of hearing, Mr. Mukherjee, learned senior advocate appearing on behalf of the State respondent and in its instrumentalities submits before the Court that he intends to file an affidavit-in-opposition in the instant case.
4. Considering the nature of the instant writ petition and also considering the materials as placed before this Court this Court considers that the instant writ petition can be disposed of even without an order for exchange of affidavits.
5. Accordingly, prayer as made by Mr. Mukherjee for allowing him to file affidavit is considered and rejected.
6. At the time of hearing, Mr. Bhattacharya, learned senior advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page no. 41 to 45 of the instant writ petition being a copy of the order dated 24.07.2025 as passed by the respondent no. 4 authority in Misc. Case

No. 6 of 2025 pursuant to the order dated 30.06.2025 as passed by this Court in connection with WPA 10998 of 2025. It is submitted by Mr. Bhattacharya that on perusal of the order under challenge dated 24.07.2025 it would reveal that the respondent no. 3 authority completely overlooked the finding of the Hon'ble Division Bench of this Court in the judgment dated 21.12.2018 as passed in **FMA 1593 of 2018 (Basudeb Paul vs. The State of West Bengal)**, a copy of which has been annexed at page nos. 19 to 27 of the instant writ petition.

7. In his next limb of submission, Mr. Bhattacharya took me to paragraph 5 of the said judgment dated 21.12.2018. It is further submitted by Mr. Bhattacharya that in such paragraph no. 5 the Hon'ble Division Bench directed the respondent authority to consider the memo dated 18.02.2016 as a government order of grant.

8. At this juncture, Mr. Bhattacharya took me to Rules 61 and 62 of the West

Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as the 'said Rules of 2016' in short).

9. It is submitted by Mr. Bhattacharya that Rule 61 and 62 of the said Rules of 2016 clearly envisages that in the event an applicant has been issued a grant order or Letter of Intent (LOI) or any other government order requiring an alteration of applicants position in such a case the mining lease application shall have to be considered in terms of the West Bengal Minor Minerals Rules, 2002 (hereinafter referred to as the said Rules of 2002 in short) which has been repealed in view of Rule 62 of the said Rules of 2016.
10. It is thus submitted by Mr. Bhattacharya that since the writ petitioner's application for extension of mining lease was submitted during the lifetime of the said Rules of 2002 and since the Hon'ble Division Bench directed the respondent authorities to consider the memo dated 18.02.2016 as a 'government grant', the writ petitioner's application for renewal of

mining lease ought to have been considered in terms of the provision of the said Rules of 2002.

11. It is further submitted by Mr. Bhattacharya that the respondent no 4 authority while passing the order under challenge dated 24.07.2025 has miserably failed to visualize the true implementation of law as envisaged in Rules 61 and 62 of the said Rules of 2016 and thus passed a wrong order which is required to be set aside in a judicial review and appropriate relief/release to be granted may the writ petitioners.

12. Such contention is, however, vehemently opposed by Mr. Mukherjee, learned senior advocate appearing on behalf of the respondent State and its instrumentalities. It is submitted by Mr. Mukherjee that on perusal of the order under challenge dated 24.07.2025 vis a vis the provisions of the said Rules of 2016 including the provisions of West Bengal Minor Minerals (Auction) Rules, 2016 read with Rule 6(iii) of the West

Bengal Land Mining Policy, 2020 there is hardly any scope to pass an order for renewal of the lease since the said Rules of 2016 as well as the said auction Rules of 2016 clearly mandates that after completion of the period of lease, the leasehold plot of land stood vested to the State.

13. On careful consideration of the entire materials as placed before this Court and after giving due thought over the submissions for the learned advocates of the contending parties, this Court at the very outset proposes to look to the provisions of Rules 61 and 62 of the said Rules of 2016 which are quoted hereinbelow in verbatim:

“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.”

14. On perusal of the aforementioned two provisions of the said Rules of 2016 it reveals that the legislators while framing the said Rules of 2016 categorically indicated that with the coming into force of Rules of 2016 all pending applications for mining lease of minor minerals would become ineligible with a rider that in the event the applicant has been issued a grant order or Letter of Intent (LOI) then his minor lease would be considered after due compliance of all the necessary conditions.

15. Rule 62 though envisages repealing of the said Rules of 2002 with coming into force of said Rules of 2016, however, it contains a saving clause which says that

notwithstanding such repeal anything done, any action taken or any prosecution started under the previous Rules of 2002 shall be deemed to have been validly done or taken or started.

16. Keeping in mind an aforementioned provision of Rules of 2016 if I look to the judgment dated 21.12.2018 as passed by a Division Bench of this Court in FMA 1593 of 2018 (Basudeb Paul Vs. The State of West Bengal & Ors.) it reveals that the Hon'ble Division Bench in paragraph no. 5 of the said judgment directed the respondents/authorities to consider the memo dated 18.02.2016 as issued by the respondent no. 5 authority herein as a government grant. It is pertinent to mention herein that such memo dated 18.02.2016 was issued to the present writ petitioner on account of his application for his renewal of mining lease which is ante dated to 29.07.2016 i.e. prior to the said Rules of 2016 was brought into effect.

17. Such being the position and in view of the clear direction of the Hon'ble

Division Bench of this Court in FMA 1593 of 2018, the respondent authorities more specifically the respondent nos. 4 and 5 authority have got no other alternative but to consider the memo dated 18.02.2016 as a grant order within the meaning of Rules 61 of the said Rules of 2016 and on account of such grant order the application for renewal of mining lease as has been made in the writ petition shall have to be considered in terms of the provision of said Rules of 2002 in view of the legislative mandate as enshrined in proviso of Rule 61 and Rule 62 of the said Rules of 2016.

18. In view of the discussions hereinabove, the instant writ petition succeeds.

19. Consequently, the order under challenge dated 24.07.2025 as passed by the respondent no. 4 authority in Misc. Case No. 6 of 2025 is hereby set aside.

20. Consequently, the respondent nos. 4 and 5 are directed to allow the writ petitioner's renewal application dated 21.03.2024 forthwith and the

respondent nos. 4 and 5 are further directed to execute a registered Deed of Renewal of Lease of the self-same plot of land or in respect of a similar plot having same area preferably in the same mouza and in the same district subject to compliance of legal formalities by the writ petitioner within 90 working days from the date of communication of the server copy of this judgment.

21.The time limit as fixed by this Court is mandatory and peremptory.

22.Liberty is given to the learned advocate on record to the petitioner to communicate the server copy of this order to the respondent nos. 4 and 5 authority forthwith.

23.The respondent nos. 4 and 5 authority is directed to act on the basis of server copy of this order.

(Partha Sarathi Sen, J.)