

S/L 10
15.09.2025
Court. No. 19
Sourav

WPA 21125 of 2025

**Smt. Kalomoni Baski & Ors.
Vs.
The State of West Bengal & Ors.**

*Mr. Md. Talay Masood Siddiqui, Sr. Adv.
Mr. Soumitra Chatterjee*

...for the petitioners.

*Mr. Nayan Bihani, Sr. Adv.
Ms. Papiya Banjerjee Bihani*

...for the State.

*Mr. Sanjay Saha
Mr. Raju Mondal*

...for the respondent nos. 10 and 11.

1. The affidavit-of-service as filed today on behalf of the writ petitioners is taken on record.
2. In this writ petition, the order dated 16.07.2025 as passed in the Case No. M&M/02 of 2025 as passed by the respondent no. 5/authority is impugned.
3. By the impugned order dated 16.07.2025, the said respondent no. 5/authority declined to consider the representation of the writ petitioners for extension of the period of mining lease as directed to be considered by a co-ordinate Bench of this Court vide its order dated 13.11.2024 in connection with **WPA 25735 of 2024 (Kalomoni Baski & Ors. Vs. State of West Bengal & Ors.)**.
4. At the time of hearing, Mr. Siddiqui, learned senior advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to the copy of the order dated 16.07.2025 as passed by the

respondent no. 5/authority which has been annexed at Page Nos. 121 to 126 of the instant writ petition.

5. It is submitted by Mr. Siddiqui that on bare perusal of the order under challenge dated 16.07.2025, it would reveal that the aforementioned order under challenge was passed without application of judicious mind at the instance of the respondent no. 5/authority. It is further submitted by Mr. Siddiqui that the respondent no. 5/authority while considering the representation of the writ petitioners and while passing the impugned order dated 16.07.2025 was persuaded by some extraneous materials which have vitiated the decision making process of the respondent no. 5/authority and, therefore, there is every requirement that the said order under challenge dated 16.07.2025 be interfered with in a judicial review in connection with the instant writ petition.
6. In support of his contention, Mr. Siddiqui places his reliance upon an order dated 02.05.2023 as passed by a co-ordinate Bench of this Court in connection with **WPA 28430 of 2022 (Subrata Dey Vs. The State of West Bengal & Ors.)**. It is further submitted by Mr. Siddiqui that on perusal of the said order dated 02.05.2023, it would reveal that a co-ordinate Bench entertained a similar type of writ petition ignoring the provisions of Rule 51 of the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as 'the said Rules of 2016' in short).

7. It is thus submitted by Mr. Siddiqui that appropriate relief/reliefs may be granted to the writ petitioners in terms of the prayers made in the instant writ petition.
8. Per contra, Mr. Bihani, learned senior advocate appearing on behalf of the respondent/State vehemently opposes the contention as raised by the Mr. Siddiqui. It is submitted that in view of the availability of the alternative statutory remedy that is to say the provision of appeal as envisaged in Rule 51 of the said Rules of 2016, the instant writ petition is not at all maintainable.
9. Placing his reliance upon an order dated 25.07.2023 as passed by an Hon'ble Division Bench of this Court in connection with ***MAT 1186 of 2023 (Arsed Ali Sekh Vs. The State of West Bengal & Ors.)***. It is submitted by Mr. Bihani that a similar question arose in the case of ***Arsed Ali Sekh (supra)*** where the aforementioned Division Bench of this Court rejected the mandamus appeal as preferred by the writ petitioners basically on the ground of availability of the alternative statutory remedy that is Rule 51 of the said Rules of 2016.
10. Mr. Saha, learned advocate appearing on behalf of the respondent nos. 10 and 11 adopted the argument of Mr. Bihani.
11. 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 the subject matter of the instant writ petition is the order dated 16.07.2025 as passed by the respondent no. 5/authority in connection with the representation dated

16.04.2024 as filed by the writ petitioners. It appears to this Court that by way of said representation, the writ petitioners have prayed for extension of period of mining lease as was originally executed in favour of their predecessor-in-interest.

12. It appears to this Court that by passing the impugned order dated 16.07.2025, the respondent no. 5/authority rejected the said representation.
13. At this juncture, if I look to the provision of Rule 51 of the said Rules of 2016, it reveals that it is the clear legislative mandate that any person aggrieved by an order made by the district authority or any officer duly authorized by the district authority in exercise of the powers conferred upon him by the said Rules may within 30 days from the date of communication of the order to him prefer an appeal against the order.
14. It thus appears to this Court that there is availability of alternative statutory remedy to the writ petitioners challenging the order dated 16.07.2025 as passed by the respondent no. 5/authority in connection with Case No. M&M/02 of 2025.
15. As rightly pointed out by Mr. Bihani that similar such view was taken by an Hon'ble Division Bench of this Court in the case of ***Arsed Ali Sekh (supra)***.
16. On careful perusal of the entire materials as placed before this Court, this Court finds no reason to entertain the instant writ petition since in considered view of this Court the writ petitioners have miserably failed to make

out a case for entertaining the instant writ petition despite availability of alternative statutory remedy.

17. With the aforementioned finding, the instant writ petition being **WPA 21125 of 2025** is hereby dismissed.
18. However, there shall be no order as to costs.
19. Before parting with, it is, however, made clear that since the writ petitioners are pursuing their remedy in a wrong forum, this Court directs that in the event, the writ petitioners file an appeal before the appropriate authority under Rule 51 of the said Rules 2016 within 30 working days from today, the said appellate authority will condone the delay in filing the said appeal.
20. 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.)