

10.02.2025

Item No.06

Crt.No.02

b.r.

WPA 21745 of 2023

Aniruddha Banerjee

-vs-

The State of West Bengal & Ors.

Mr. Supriyo Chattopadhyay

Ms. Deborsri Chatterjee

..... for the petitioner.

Mr. Chandi Charan De, Id. AGP

Ms. Tithi Pal

.... For the State.

Mr. Supriyo Chattopadhyay, learned advocate appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the State-respondents.

On the prayer of Mr. Supriyo Chattopadhyay, learned counsel appearing for the petitioner, the exception to the report in the form of affidavit filed in Court today, is taken on record. Copy has been served upon Mr. De, Learned Additional Government Pleader.

The petitioner claims that he has participated in a tender for obtaining mining lease, the tender was held in terms of the tender notice dated **September 7, 2017, annexure p-1 at page-22** to the writ petition. The petitioner now contends that

there was no sand block available at the tendered site for which the petitioner has participated. The petitioner has already deposited a sum of **Rs.83,33,34/-** as and by way of **one third** of the tender value. The money was deposited on **January 4, 2018**. Till date the mining lease has not been executed in favour of the petitioner without showing any reason and no such lease deed was executed as the sand block is not available at the tendered site.

Referring to a communication dated **June 12, 2018 annexure p-6 at page-4** to the writ petition, Mr. Supriyo Chattopadhyay, learned counsel for the petitioner submits that there was a specific direction by the **respondent no.5** upon the **respondent no.4** to cause a field enquiry and send a report to the office of the respondent no.5. Learned counsel for the petitioner submits till date no such enquiry has been conducted neither any report has been submitted before the petitioner and the petitioner totally has been kept in dark. There were direction from this Court to file a necessary report in the form of affidavit by the respondent authority. Though the report has been filed but without any supporting affidavit.

Referring to the report, learned Additional Government Pleader, Mr. Chandi Charan De

submits that the tender terms being **Clause 6.3** at **page 30** to the writ petition permitted the petitioner to go for a site inspection at the concession area to know about the site condition but in the instant case the petitioner has failed to do so. Learned Government Pleader submits that now at this belated stage, the petitioner cannot take the plea that sand block was not available at the tendered site.

Per contra, learned counsel for the petitioner has denied and disputed the submissions of learned Additional Government Pleader.

Be that as it may, after considering the rival contentions of the parties and upon perusal of the materials on record, the **respondent no.4** upon issuing a prior notice to the petitioner is directed to conduct a physical inspection of the tendered site for which petitioner has submitted its offer and shall prepare a detailed inspection report and forward the same to the petitioner and the respondent no.5.

This exercise shall be carried by the **respondent no.4** positively within a period of **four weeks** from the date of communication of this order.

After receiving the report from the respondent no.4, the **respondent no.5** upon issuing a prior hearing notice of at least **seven days** to the

petitioner and the **respondent no.4** and after granting them an opportunity of hearing in presence of all the necessary land records shall dispose of the issue by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the **respondent no.5** positively within a period of **six weeks** from the date of receiving the report from the respondent no.4 and the reasoned order shall be communicated to the petitioner positively within a period of **one week** from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties and the parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the **respondent no.5**.

In the event, the reasoned order goes in favour of the petitioner, the **respondent no.3** shall take all necessary and consequential steps to give an immediate effect thereto in accordance with law but positively within a further period of **four weeks** from the date of the said reasoned order to be communicated to him.

It is made clear that this order shall not create any right or equity in favour of the petitioner, if the petitioner is not eligible to receive his claim **strictly** in accordance with law.

With the above observations and directions, this writ petition, **WPA 21745 of 2023** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)