

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

06.01.2025
Ct. no.2
M/L SL. No. 23
Moumita

WPA 21830 of 2023

Sri Supravat Mandal

Vs.

The State of West Bengal & Ors.

Mr. Sanjib Bandyopadhyay

Mr. Manoj Kumar Mondal

.....For the Petitioner

Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.

Mr. Priyabrata Batabyal

.... For the State/Respondents

Mr. Sanjay Saha

Mr. Raju Mondal

....for the Respondent nos. 2 and 3

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Sanjib Bandyopadhyay, learned counsel appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned counsel appears for the State/respondent nos. 1, 4, 5 and 6.

Mr. Sanjay Saha, learned counsel appears for the respondent nos. 2 and 3.

Leave is granted to the petitioner to the file of supplementary affidavit. The supplementary affidavit filed in court today, is taken on record. This court is informed that the copy of the supplementary affidavit has already been served upon the respondents.

The petitioner claims that petitioner was a valid and bona fide lessee in respect of a sand block. The lease was granted on **October 27, 2016** for tenure of five years. In between the respondent no. 4 by its order dated **March 12, 2020 annexure P-6 at page 70** to the writ petition suspended the lease before its expiry on the allegation made in the suspension order and the lessee was directed to show cause as to why, the said suspension would not take place.

The petitioner lessee submitted its reply dated **March 16, 2020** before the respondent no. 4 **annexure P-7 at page 71** but till date no final decision has been taken by the respondent no. 4 on the basis of the said show cause notice.

Learned counsel for the petitioner then refers to a judgment of the jurisdictional Criminal Court dated **September 15, 2023 annexure X-1 at page 6** to the said supplementary affidavit and submits that the charges of which the lease was suspended had ultimately travelled up to the criminal trial held by the jurisdictional Criminal Court and jurisdictional Criminal Court at the end of the trial exonerated the petitioner from the alleged charges.

Hence, the petitioner claims that the petitioner may be allowed to carry out the mining activity for the residual period of lease which was under suspension.

Mr. Banerjee, learned senior state counsel submits the lease was granted in the year **2016** under the then prevailing **West Bengal Mining Minerals Concession Rules, 2016** and when the petitioner has been exonerated in **2023** by the jurisdictional Criminal Court the new **Sand Mining Rules** namely, the **West Bengal Sand (Mining, Transportation, Storage and Sale) Rules 2021** has been effected and has come into force. Learned state counsel then submits that the case of the petitioner in any even cannot be considered under the said **2016 Rules** any further, as the prevailing **Sand Mining Rules**, the **Rule** of **2021** has come into force.

After considering the rival contentions of the parties and upon perusal of the materials on record, the respondent no. 4 after issuing a prior hearing notice of at least seven days to the petitioner and the respondent no. 3 and after granting them an opportunity of hearing shall take a decision on the basis of the existing materials by passing a reasoned order.

While deciding the issue the respondent no. 4 shall consider the order dated **March 12, 2020**, the reply thereto submitted by the petitioner dated **March 16, 2020** and the judgment of the jurisdictional Criminal Court dated **September 15, 2023**.

It is needless to mention that the entire issue shall be considered in the light of the provisions laid

down in the prevailing **Sand Mining Rules** of **2021**, as referred to above.

The entire exercise shall be carried out and completed by the respondent no. 4 within a period of **six weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioner and the respondent no. 5 within a period of **two weeks** 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 case of the petitioner and the respondent no. 5 and they shall be at liberty to urge all their points before the respondent no. 4 but the same shall be decided in the light of the said **2021 Sand Mining Rules**.

It is made clear that this order shall not create any right or equity in favour of the petitioner.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 21830 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.)