

S/L 4  
05.08.2025  
Court. No. 19  
*Suwayan*

**WPA 21898 of 2023**

**Dinabandhudas Bairagya  
Vs.  
The State of West Bengal & Ors.**

*Ms. Pampa Dey Dhabal*

*...for the petitioner.*

*Mr. Sk. Md. Galib  
Mr. Tamal Taru Panda*

*...for the State.*

*Mr. Sanjay Saha  
Mr. Raju Mondal*

*...for the respondent no. 6.*

1. The parties to the instant writ petition are represented by their respective Counsels.
2. In course of hearing Mr. Galib, learned Advocate appearing on behalf of the State submitted a report on behalf of the respondent no. 3 which is taken on record.
3. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent no. 4/authority for considering the application made by the writ petitioner for storage and sale of the sand in accordance with law with a further prayer for issuance of writ of mandamus commanding the respondent nos. 2, 3 and 4 to allow the writ petitioner to carry on the mining operation and sale of sand stored on payment of penalty.
4. At the time of hearing, Ms. Dhabal, learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 40 and 41 of the instant writ petition being a copy of the

order dated 06.01.2023 as passed in WPA 25044 of 2022 whereby and whereunder a co-ordinate Bench while disposing the said writ petition directed the respondent no. 4 therein to consider the representation of the writ petitioner in accordance with law within a stipulated period. Drawing attention to the copy of the order dated 20.04.2023 as passed by the respondent no. 3/authority it is contended by Ms. Dhabal that the present writ petitioner is willing to deposit the fine amount to the tune of Rs. 13,52,944/- as imposed by the jurisdictional BL&LRO.

5. Per contra, Mr. Galib, learned Advocate appearing on behalf of the respondents/State, however, submits that from the writ petition it would reveal that the writ petitioner's prayer is not so innocuous. It is submitted by Mr. Galib that the present writ petitioner is not a lessee and it is found that the writ petitioner has illegally stored sand without obtaining any permission from any authority. It is further submitted by Mr. Galib that the sole intention of the writ petitioner is practically to acquire ownership of the said stored sand as well as to sale out the said sand by deposit of the penalty amount.
6. Mr. Saha, learned Advocate appearing on behalf of the respondent no. 6 adopts the argument of Mr. Galib.
7. On careful perusal of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties if I look to the order under challenge dated 20.04.2023 it reveals that

the respondent no. 3/authority had come to a specific finding that the present writ petitioner is not a lessee for excavation of sand. It further reveals from the said order under challenge that the respondent no. 3/authority found that the present writ petitioner had obtained no permission from the authority for stacking of sand. It further reveals from the said order under challenge that though the writ petitioner expressed his willingness to deposit the entire penalty amount as mentioned hereinabove, he has also made an application for allowing him to keep the said stacked sand under his custody which according to the respondent no. 3 cannot be permitted since such stock of sand is totally illegal on the part of the writ petitioner.

8. In considered view of this Court that the order passed by the respondent no. 3/authority is absolutely justified inasmuch as in course of hearing nothing could be placed before this Court on behalf of the writ petitioner that either the writ petitioner is a lessee and/or he has obtained necessary permission for stock of sand which is a minor mineral.
9. In view of such, this Court thus while disposing the instant writ petition permits the writ petitioner to deposit the entire penalty amount of Rs. 13,52,944/- in the public exchequer. It is, however, made clear that in the event such penalty amount is made deposited will not create any equity in favour of the writ petitioner that is to say by deposit of the said penalty amount the

writ petitioner cannot claim any ownership and/or right of selling the said stacked sand as rightly observed by the respondent no. 3/authority.

10. Before parting with, it is further made clear that in the event the fine amount as mentioned in the order under challenge is not deposited within 30 working days from today the respondent no. 3/authority shall initiate a certificate proceeding against the writ petitioner for recovery of the said amount of Rs. 13,52,944/-.
11. The time limit as fixed by this Court is mandatory and peremptory.
12. Learned Advocates-on-Record for the writ petitioner and the respondent/State are hereby requested to communicate the server copy of this order to the respondent no. 3/authority.
13. The respondent no. 3/authority is directed to act on the server copy of this order.
14. With the aforementioned observation, the instant writ petition being WPA 21898 of 2023 is disposed of.
15. 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.)**