

17.04.2025.
Item No. 31.
Court No. 32
ap

**W.P.A. No. 22018 of 2012
With
I.A. No. CAN 2 of 2023**

**Manik Mondal
Versus
The State of West Bengal & Ors.**

Md. Nurezaman,
Mr. Soumen Bose.

....For the petitioner.

1. None appears on behalf of the respondents. No accommodation was sought for.
2. This is a second round of litigation filed by the writ petitioner.
3. The prayer is made for issuance of quarry and long term mining lease in favour of the petitioner for extraction of Black Stone in respect of Plot No. 225, Mouza – Barua Gopalpur, J.L. No. 01 in the District of Birbhum within a specific period with other consequential reliefs.
4. The writ petitioner had filed a writ petition earlier being W.P. No. 21795 (W) of 2010 with a same prayer.
5. After hearing the parties, a Co-ordinate Bench of this Court directed the respondents as, *inter alia*,:

“After having heard Shri Nure-Zaman and Shri Sarkar for the respective parties and on considering the materials that have been made available, including the recommendation made by the Block Land & Land Reforms Officer (Respondent no.7), I dispose of this writ petition with a direction upon the Respondent no.3, Assistant Secretary, Commerce and Industries Department (Mines Branch), Govt. of West Bengal to take a decision on the whole issue, involving mining lease and quarry permit, keeping in view

the objection of Shri Sarkar in the light of the first proviso of Rule 27 of the said Rules.

Decision must be taken by the Respondent no.3 within a period of fortnight from the date of communication of this order and be communicated to the petitioner within that time.

Writ Application disposed of.”

6. A hearing was taken place in compliance of the aforesaid order by the Assistant Secretary (Mines) on 3rd June, 2011 (Annexure P-14). Wherein it was observed that eligibility criteria of Shri Manik Mondal, the petitioner herein has not been disputed. It was further held that another writ petition has been pending on the selfsame issue on the selfsame plot being W.P. No. 9143 (W) of 2010 (Rajgaon Stone Company – Vs. – State of West Bengal & Ors.). The said matter was sub judice on the date of hearing. Due to sub judice of the matter, the Authority held that mining lease application of Shri Manik Mondal cannot be finally disposed of during the pendency of the writ petition being W.P. No. 9143 (W) of 2010.

7. At the same time it was further held that if the learned Legal Remembrancer, West Bengal opined that the application of Shri Manik Mondal could be disposed of before the said writ petition pending disposal in the Hon’ble High Court, Calcutta, necessary action may be taken in the matter.

8. It was also, however, held that there is no bar in considering the application of Shri Manik Mondal along with the case of other applicants in terms of the extant Rules provided the learned Legal

Remembrancer, West Bengal's guidance and advice are received in the matter. However, no prayer of the writ petitioner has been considered as yet by the concerned authorities. Hence, this writ petition.

9. Learned Counsel appearing on behalf of the petitioner relied upon a judgment passed in W.P.A. No. 16722 of 2012 wherein a Co-ordinate Bench of this Court held as under:

"3. It is submitted by the learned Advocate for the petitioner that the West Bengal Minor Mineral Rules, 2002 was repealed by West Bengal Minor Minerals Concession Rules, 2016. However, sub-section (2) of Rule 62 of the West Bengal Minor Minerals Concession Rules, 2016 provides as follows:-

"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."

4. Thus, in spite of repeal of the West Bengal Minor Mineral Rules, 2002 the respondents are bound to consider the representation filed by the petitioner on 19th June, 2012.

5. It is ascertained from the annexure P9 that the respondent authority granted long term mining lease in favour of one Abdul Motin vide order dated 17th April, 2012. Though, on 9th June, 2011 the ADM and DL and LRO specifically recorded in his order that there is no land in the said area and therefore petitioner's prayer could not be considered. The order dated 17th April, 2012 contradicts the finding of the respondent authority vide order dated 9th June, 2011.

6. In view of such circumstances, the instant writ petition is allowed.

7. The respondent No.2 and 3 are directed to dispose of the representation of the petitioner dated 19th June, 2012 within 60 days from the date of communication of the order in accordance with law."

10. It is further submitted that though the reference was made with regard to the writ petition being W.P. No. 9143 (W) of 2010, the said writ petition was not at all related with Plot No. 225 and the said writ petition

is totally concerned with different disputes. The present writ petitioner has also filed copy of the said writ petition as also the order in supplementary affidavit.

11. Upon perusal of the record as well as orders, it appears that the dispute involved in the writ petition no. 9143 (W) of 2010 is relating to different plot numbers and the plot involved in the present writ petition is not at all connected with the said writ petition.

12. In view of the aforesaid facts, there is no bar to consider his prayer for quarry and long term mining lease as observed by the Authority vide order dated 3rd June, 2011.

13. This Court is of the view that purpose would be sub-served if the writ petition is disposed of directing the respondent no.2 to consider the case of the petitioner after hearing the interested parties, if any, relying on the judgment placed by the learned Counsel appearing on behalf of the petitioner and the writ petition as well as supplementary affidavit within a period of eight weeks from the date of communication of a copy of this order and pass a reasoned order independently and in accordance with law and communicate the said reasoned order to the parties within one week thereafter.

14. Writ petitioner is directed to communicate this order along with copy of writ petition and

supplementary affidavit together with annexure thereto to the respondent no. 2 for information and necessary compliance.

15. With the aforesaid observations, the instant writ petition is disposed of.

16. In view of disposal of the main writ petition, the connected application being **CAN 2 of 2023** is also disposed of.

17. There will be no order as to costs.

18. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)