

July 16, 2025
Sl. No.74
Court No.19
s.biswas

WPA 27272 of 2024

M/s. Shri Mataji Builders
vs.
The State of West Bengal and others

Mr. Piyush Chaturvedi, Sr. Adv.
Mr. Mir Anowar

... for the petitioner

Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal

... for the State

1. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent no.3 herein for quashing and/or cancelling the order dated 22.10.2024 whereby and whereunder the appeal preferred by the writ petitioner challenging the order dated 26.08.2021 as passed by the respondent no.4/authority was dismissed. It is pertinent to mention herein that by the said order dated 26.08.2021, the respondent no.4/authority cancelled and forfeited the earnest money deposited by the writ petitioner in connection with the Auction ID:2021_WB_1818 of Sand Block Raina-II/Maniari/334(P)/A.
2. At the time of hearing Mr. Chaturvedi, learned Senior Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this court to page no.20 of the instant writ petition being a copy of the notice inviting e-auction for grant of mining lease of sand dated

21.01.2021 as issued by the office of the respondent no.4 authority. It is submitted by Mr. Chaturvedi that in such e-auction process as floated under the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as 'the Concession Rules of 2016' in short) and West Bengal Minor Minerals (Auction) Rules, 2016 (hereinafter referred to as 'Auction Rules of 2016' in short), the writ petitioner is found to be successful highest bidder.

3. Drawing attention to page no.37 of the instant writ petition, Mr. Chaturvedi, further submits that from the copy of the notice dated 12.03.2021 as issued by the respondent no.5 authority, it would reveal that being a successful bidder in the said e-auction process the writ petitioner had deposited Rs.10,51,200/- while submission of the application for auction and by the self-same notice the writ petitioner was asked to deposit a sum of Rs.1,68,83,467/- i.e. the remaining portion of the 1/3rd of the bid amount soon thereafter and for which the writ petitioner was directed to appear in the office of the respondent no.5 authority.

4. It is further submitted by Mr. Chaturvedi that on 19.03.2021 the writ petitioner appeared before the respondent no.5 authority and prayed for extension of time on the ground of his illness and

ultimately on 17.05.2021 he had again approached the respondent no.5 authority for grant of some more time to deposit the said 1/3rd bid amount within a month since at that material time he was discharged from Apollo Hospital, Chennai after a head, neck and scalp surgery.

5. Drawing attention to page no.74 of the instant writ petitioner being a tabular statement, it is contended by Mr. Chaturvedi that the writ petitioners approached the respondent authorities with a good number of bank drafts totaling to Rs.1,60,76,808/- towards the payment of 1/3rd bid amount. However, the said amount was not received by the office of the respondent nos.4 and 5 authority and on the contrary the said respondent no.4 most unilaterally cancelled the bid as awarded in favour of the writ petitioner on account of alleged non-payment of 1/3rd of the bid amount by his order dated 26.08.2021 which was impugned before the respondent no.3 authority by preferring a statutory appeal.
6. It is submitted by Mr. Chaturvedi that the respondent no.3 authority while disposing of the said appeal and while passing the order under challenge dated 22.10.2024, however failed to consider the genuine predicament of the petitioner and thus most mechanically endorsed the view of the respondent no.4 authority without

visualizing the relevant rules under the said Concession Rules of 2016 and the aforementioned Auction Rules of 2016.

7. It is further submitted by Mr. Chaturvedi that in another appeal based on identical facts, a copy of which has been annexed with the instant writ petition at page nos.109 to 111, the self-same appellate authority i.e. the respondent no.3 authority allowed such appeal, thereby permitting the appellant therein to pay the balance 1/3rd bid amount within the extended period considering the medical emergency of the appellant therein.
8. It is thus submitted by Mr. Chaturvedi that the respondent no.3 authority being an authority under Article 12 of the Constitution of India is duty bound to act in a fair, just and reasonable manner in terms of the provision of Article 14 of the Constitution of India. In course of his submission, Mr. Chaturvedi placed reliance upon the reported decision of *ABL International Ltd. & An. Vs. Export Credit Guarantee Corporation of India Ltd. & Ors.* reported in (2004) 3 SCC 553.
9. It is further contended by Mr. Chaturvedi on instruction that the writ petitioner is ready and willing to pay interest in terms of Rule 12 of the said Auction Rules of 2016. It is thus submitted by Mr. Chaturvedi that the instant writ petition may be allowed and appropriate relief/reliefs may

be granted to the writ petitioner in terms of prayers made in the instant writ petition.

10. Such contention is however opposed by Mr. Batabyal, learned advocate appearing for the respondent State. Drawing attention to the affidavit-in-opposition as filed by the respondent no.5 in connection with the instant writ petitioner, it is submitted by Mr. Batabyal that despite availing several opportunities for deposit of the 1/3rd bid amount, the writ petitioner has failed and neglected to pay the said sum within the stipulated period and even within the extended period. It is thus submitted by Mr. Batabyal that by no stretch of imagination, it can be said that the order under challenge is contrary to the law.

11. It is further submitted by Mr. Batabyal that the order under challenge has been passed by the respondent no.3 authority in a quasi-judicial proceeding and this court sitting in a writ jurisdiction ought not to disturb the finding of the respondent no.3 in absence of any perversity and/or illegality.

12. 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 by issuing a notice dated 12.03.2021, the respondent no.5 authority

directed the writ petitioner to pay the balance 1/3rd bid amount to the tune of Rs.1,68,83,467/- within the stipulated period and on his failure he was given an opportunity of hearing and the writ petitioner has also failed to deposit the said 1/3rd bid amount within the extended time and therefore the respondent no.4 authority cancelled the bid as awarded in favour of the writ petitioner, which was impugned before the respondent no.3 authority.

13. At the time of the hearing this court has occasion to go through various medical papers as submitted by the writ petitioner. From page 58 of the instant writ petition, it reveals that the writ petitioner was admitted in a hospital in Chennai for head, neck and scalp surgery and thereafter he was discharged from the said hospital.

14. After discharge and after his recovery, the writ petitioner came back to his residence at Purba Bardhaman and then approached the respondent authorities; more specifically the respondent nos.4 and 5 by issuing a letter dated 17.05.2021 for granting extension of time. Materials have been placed before this court that the writ petitioner approached before the respondent nos.4 and 5 with a sum of Rs.1,60,76,808/- though at a belated stage, but the same was not accepted. Before the respondent no.4 authority

the writ petitioner canvassed the reason for his delay in making such payment on account of his serious physical ailments as well as due to Covid pandemic, which was not considered by the respondent no.4 authority.

15. The respondent no.3 authority in course of hearing of the appeal however failed to visualize the genuine ground as submitted by the writ petitioner and also failed to visualize the gravity and seriousness of the disease as suffered by the writ petitioner.

16. As rightly pointed out by Mr. Chaturvedi that the self-same respondent no.3 authority in a similar situation in an another appeal, considering the serious medical emergency, granted extension of time to another appellant.

17. This court thus considers that the respondent no.3 being an authority under Article 12 of the Constitution of India ought to have taken a similar approach in the case of the writ petitioner as has been taken by him in connection with Appeal 48 of 2023 in relation to the self-same block of a district.

18. It thus appears to this court that the action of the respondent no.3 is not at all reasonable in view of the fact that the decision making process of the writ petitioner has been vitiated for non-consideration of the materials as placed before

him by the writ petitioner that is the medical ailments of the writ petitioner which are really serious in nature.

19. In view of such, this court thus finds merits in the instant writ petition. Accordingly, WPA 27272 of 2024 is allowed.

20. Consequently, the order dated 22.10.2024 as passed by the respondent no.3 authority in Appeal 56 of 2023 (M/s. Shri Mataji Builders vs. State of West Bengal) under Rule 51(1) of the Concession Rules of 2016 is hereby quashed and set aside.

21. Consequently the Appeal No.56 of 2023 as disposed by the respondent no.3 is hereby allowed.

22. Consequently the order dated 26.08.2021 as passed by the respondent no.4 is also set aside.

23. Consequently, the respondent no.4 is hereby directed to calculate the quantum of interest in terms of Rule 12 of the said Auction Rules of 2016 over the sum of Rs.1,68,83,467/- i.e. the 1/3rd of the bid amount and thereafter to send such calculation to the writ petitioner forthwith and on receipt of such calculation from the respondent no.4 authority, the writ petitioner shall deposit the aforementioned 1/3rd bid amount to the tune of Rs.1,68,83,467/- together with interest as would be calculated by the

respondent no.4 and the writ petitioner within 15 working days.

24. In the event the aforementioned 1/3rd bid amount to the tune of Rs.1,68,83,467/- together with interest is deposited within the time framed by this court, the respondent no.4 authority shall issue a Letter of Intent in favour of the writ petitioner in respect of the aforementioned sand block and thereafter, upon compliance of the legal formalities, shall execute the registered deed of lease in favour of the writ petitioner for excavation of sand therefrom.

25. With the aforementioned observation, WPA 27272 of 2024 is allowed.

26. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of all necessary formalities.

(Partha Sarathi Sen, J.)