

S/L 1
24.10.2025
Court. No. 19
Sourav

WPA 28432 of 2024

**Brajagopal Saha
Vs.
The State of West Bengal & Ors.**

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

...for the petitioner.

*Mr. Chandi Charan De, Ld. AGP
Ms. Reshma Chatterjee*

...for the State.

Mr. Sanjay Saha

...for the respondent no. 3

1. The writ petitioner, the respondent/State and its instrumentalities and the respondent no. 3/Corporation i.e., WBMDTCL and its instrumentalities are represented by their respective learned advocates.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities commending them to pass an appropriate order for shifting of the sand block :- RFP No. MDTC/SAND/003/720 dated 07.04.2022, Bidder ID :- 2291775, Sand Block ID :- WB_APD_KJ_B_18, J.L. No. 09, Plot No. 2525 (p), 2526(p), 2536(p) & 2537(p), Mouza:- Uttar Mendabari, Police Station:- KALCHINI, District – Alipurduar, River – Kaljani, Sand Block Area : 2.34 Ha (5.78 Acres) to nearby feasible area with potential sand reserve.
3. Mr. Chatruvedi, learned senior advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to the various annexures to the

instant writ petition. It is submitted by Mr. Chaturvedi that from the materials as placed before this Court, it would reveal that the writ petitioner being the successful bidder in respect of the aforementioned sand block was granted LOI upon deposit of Rs. 49,50,000/- with the respondents/authorities as would be evident from page no. 66 to 68 of the instant writ petition.

4. It is submitted by Mr. Chaturvedi that from page nos. 74 and 75 of the instant writ petition, it would reveal that the respondent no. 3/corporation had issued certificates indicating that the writ petitioner has complied with the provisions of various Acts, Rules, Regulations and Guidelines for obtaining specific permission as required from the appropriate authority for commencing mining operation and the self-same corporation has issued declaration to the effect that the mining plan as has been submitted by the writ petitioner has been prepared in consultation with the said corporation and the contents of such mining plans were understood and agreed to be implemented in accordance with law.
5. It is further submitted by Mr. Chaturvedi that all on a sudden on 24.07.2024 in a meeting, it was resolved by the respondent no. 3/authority which would be evident from the copy of the minutes which has been annexed at page no. 136 that on account of a notification issued for ESZ affecting the relevant mines at that material time statutory clearance cannot be granted in favour of the writ petitioner since the aforementioned sand block falls

within Eco-Sensitive Zone and the same has been listed in the zone where mining activities totally prohibited.

6. Drawing attention to page nos. 137 and 138 of the instant writ petition being a copy of the representation dated 14.11.2024 as submitted by the writ petitioner with the respondent no. 2 and 3/authorities, it is submitted by Mr. Chaturvedi that under cover of the said representation, the writ petitioner requested the said two respondents/authorities to allot an alternative sand block in a nearby area for carrying out mining activity under the same terms and conditions over which the LOI was issued to the writ petitioner being the highest successful bidder.
7. It is further submitted by Mr. Chaturvedi that for no fault of the writ petitioner, the mining operation at the auctioned sand block could not be started though the writ petitioner has complied with all the provisions of the relevant Acts and Rules as well as the formalities and even deposited the requisite amount of money as claimed by the respondents/authorities.
8. It is thus submitted by Mr. Chaturvedi that from the action of the writ petitioner, it would reveal that a legitimate expectation arose in the mind of the writ petitioner which ought not to be frustrated by the respondents/authorities and, therefore, the respondent nos. 2 and 3 may be directed to consider the representation dated 14.11.2024 in accordance with law.
9. Per contra, Mr. Saha, learned advocate appearing on behalf of the respondent no. 3/authority contended that

since the aforementioned sand block in respect of which LOI was issued in favour of the writ petitioner has now been listed within the zone where mining activity is totally prohibited, the respondent no. 3/authority had no other alternative but to cancel the auction and to refund the bid premium amount to the writ petitioner since the allotment of a different sand block to the writ petitioner is not permissible under the West Bengal Minor Mineral Concession Rules, 2016 (hereinafter referred to as 'the said Rules of 2016' in short).

10. It is further submitted by Mr. Saha that the said Rules of 2016 clearly mandates that for allotment of a mining block the only method is by way of open auction.
11. Mr. De, learned AGP appearing for the respondent State and its instrumentalities echoes the version of Mr. Saha.
12. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court noticed that after declaration of the successful bidder, the writ petitioner has complied with all the formalities as required to be done i.e. by payment of the advance premium amount as well as by way of compliance of different formalities as would be evident from the materials as placed before this Court by way of annexures to the instant writ petition. Materials have been placed before this Court that the respondents/authorities on being satisfied with regard to the performance of the writ petitioner regarding

aforementioned compliance has issued a LOI dated 08.07.2022.

13. No materials could be placed before this Court on behalf of the respondent/State as well as on behalf of the respondent/Corporation as to what prevented the respondent/State as well as the respondent/corporation to execute a registered deed of lease in between 08.07.2022 and 24.07.2024 (when the minutes of the meeting was done).
14. As rightly pointed by Mr. Chaturvedi, learned senior advocate for the writ petitioner that on account of compliance of all legal formalities after being declared as successful bidder and deposit of the advance amount of premium amount reasonable expectation arose in the mind of the writ petitioner and, therefore, there cannot be any justification on the part of the respondent no. 2 and 3 authorities not to consider the representation dated 14.11.2024 in accordance with law.
15. In view of such, this Court while disposing the instant writ petition directs the respondent no. 3/authority in consultation with the respondent no. 2/authority to take appropriate decision over the representation dated 14.11.2024 as submitted by the writ petitioner in accordance with law and after giving a due opportunity of hearing shall pass a reasoned order and shall forthwith communicate the same to the writ petitioner preferably by email, if the email detail of the writ petitioner is provided to him at the time of hearing.

16. The entire exercise as indicated in the foregoing paragraphs shall have to be completed both by the respondent no. 3/authority and the respondent no. 2/authority within 30 working days from the date of communication of the server copy of this order.
17. The time limit as fixed by this Court is mandatory and peremptory.
18. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent nos. 3 and 2/authorities forthwith.
19. The respondent no. 3 and 2/authorities are hereby directed to act on the basis of the server copy of this order.
20. With the aforementioned observations, the instant writ petition being **WPA 28432 of 2024** is disposed of.
21. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)