

15.05.2025
Item No.22
Ali
ct. no.24

WPA 28247 of 2022

**Prasanta Ghosh
Vs.
State of West Bengal & Ors.**

Mr. Subhendu Roy Choudhury,
Ms. Shila Chatterjee

..... for the petitioner.

Mr. Asim Kr. Ganguly,
Mr. Sandip Sarkar

.... for the State.

Exception to the report in the form of affidavit filed on behalf of the respondent No. 3 is taken on record.

Petitioner was granted a Mining Lease by virtue of Mining Lease Agreement executed by and between the Government of West Bengal and the petitioner on 9th of March, 2017 till 13th of March, 2022 for the purpose of Sand minerals in the concerned area and carry the said business for taking Sand minerals from River Darakeswar in the said land covering an area about 04.60 acres.

Petitioner was running the business by extracting Sand minerals from the area concerned under lease.

It is the contentions of the petitioner that due to Covid Pandemic the petitioner could not extract Sand/performed business from his leasehold area for a period of near about two years. The concerned

authority vide an intimation for closure of mines dated 16th of February, 2022 directed the petitioner to stop all types of mining operation over the leasehold area.

Petitioner submits a representation with the concerned Additional District Magistrate & District Land & Land Reforms Officer, Bankura containing, inter alia, that due to Covid pandemic, he could not perform his business; thus, he may be permitted to continue the lease period for a further period of two years. His representations were not considered; hence this writ.

By filing the instant writ petition the petitioner prayed for issuance of mandamus upon the respondent authority so that the petitioner may be allowed to continue the lease for a further period of three years.

Respondent authority filed a report in the form of affidavit against the writ petition containing, inter alia, that the lease was expired on 13th of March, 2022. The Department of Industry, Commerce and Enterprises has implemented New Sand Mining Policy, 2021 vide a Notification dated 30th July, 2021 for the State of West Bengal. By a notification dated 28th of February, 2022 all existing mining lease

expiring April 2022 are extended till 31st of May, 2022.

It is further contentions of the respondent authority that Government of West Bengal Sand Mining Policy, 2021 which was published on 30th of July, 2021 under a Notification of the Government, wherein it has been clearly mentioned in schedule 6 (III) of the said policy that in relation to existing leases, the lease shall not have renewed and shall automatically be resumed and vested with the State Government, upon expiring of such leases period. All lease and Sand Mine under the Government of West Bengal are being dealt with by a new agency, namely, West Bengal Mineral Development and Trading Corporation Ltd. ("WBMDTCL").

Mr. Ganguly, learned counsel for the State submits that as new policy has been developed and adopted by the State authority so the lease period cannot be extended.

In reply, learned counsel for the petitioner submits that there is clause in the lease regarding "Force Majeure", it has been enumerated in the lease that due to unforeseen reason like Covid, the lease period can be extended. He referred the paragraph 5 of part IX of the lease agreement.

Having heard the learned counsel for the parties; considering the pleadings as well as the report in the form of affidavit it appears to me that the leases between the Government of West Bengal and the petitioner has expired on 13th of March, 2022. Thereafter, it was extended upto may, 2022.

The petitioner has approached this Court only on the ground that during the Covid Pandemic period the petitioner could not perform business for extracting Sand from River Darakeswar. The situation reflects that the State of West Bengal has developed a new policy to deal with the Mining leases Notification dated 30th July, 2021 of the Government of West Bengal which was placed by the concerned authority with the report in for the form of affidavit reflects:-

"(iii) Transfer of existing mining leases: in existing leases the lease shall not renewed and shall automatically be resumed and vested with the State Government upon expiry of such leases. The State government shall then lease the Sand Mines to WBMDTCL or any agency recommended by it".

So, the Government of West Bengal has developed a policy that existing lease shall not be renewed and it shall automatically be resumed and vested to the State of West Bengal upon expiry of such lease period.

It is admitted that the petitioner has suffered a loss due to the Covid Pandemic. It is also admitted that the Covid pandemic may come under the definition of "Force Majeure" but at the same time as State of West Bengal has adopted a policy decision regarding the not renewal of all lease which was existing earlier to that of the government notification the policy decision of the State cannot be called in question in a writ Court when it is not at all appears to be arbitrary, unreasonable or whimsical.

Having considered the merit of this matter it appears to me that though the lease period was going to expire on 13th of March, 2022, prior to that, as intimation for closure of Mine was given to the petitioner. At the time, the petitioner never approached to the authority but he approached the authority after the expiry of his lease period i.e. 1st time on 14th of November, 2022. The approach of the petitioner appears to be suffers delay. Petitioner must have approached the authority during subsistence of his lease period.

Moreover, now after such a long period, in this year 2025, when the State has already adopted a new policy Mining lease, the grievances of the petitioner cannot be entertained.

At this juncture, I find no justification to entertain the writ petition. However, petitioner may approach the agency concerned for getting new lease according to law.

Accordingly, the writ petitioner is disposed of.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)