

Court No. 2
06.01.2025
(Item No. 29)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 28982 of 2023

Raja Ghosh
VS
The State of West Bengal & Ors.

Mr. Pinaki Ranjan Chankraborti
Mr. Pallav Chatterjee
Mr. Monajit Chakraborti
.... For the petitioner
Mr. Chandi Charan De, Id. Add. Govt. Pleader
Mr. Anirban Sarkar
.... For the State respondents
Mr. Sanjay Saha
Mr. Raju Mondal
.... For respondent No. 2

Affidavit of service filed in Court today is taken on record.

Mr. Pinaki Ranjan Chakraborti, learned advocate appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for respondent Nos. 1 and 3 to 7.

The petitioner was an intending lessee for a sand block. He participated in the allotment tender process. He became a successful candidate and has deposited a sum of **Rs.6,00,000/-** equivalent to 1/3rd of the total bid amount on or about **April 9, 2018**. The letter of intent was issued in favour of the petitioner by the appropriate State authority on **April 13, 2018, annexure P-1** at **page 15** to the writ

petition but the lease deed has not yet been registered in favour of the petitioner, though the petitioner was ready and willing to pay the balance premium and/or the bid amount to the appropriate State authority. On instruction learned counsel appearing for the petitioner submits that the petitioner is still ready and willing to pay the balance amount payable in accordance with law.

In the previous round of writ litigation on the self-same issue the co-ordinate bench has passed an order **dated July 24, 2023, annexure P-6 at page 55** to the writ petition, when the State authority was directed to consider the representation of the petitioner. The concerned authority was also directed to consider allotment of an alternative sand block in the potential zone in favour of the petitioner. The document at **page 28** to the writ petition shows that the sand block which was proposed to be allotted in favour of the petitioner was beyond the potential zone.

The admitted position is that, the petitioner participated in the auction process for obtaining sand block in the year 2018 when the **West Bengal Minor Minerals Concession Rules, 2016 was in vogue**. Till date even after compliance of all the formalities, to the extent it was required to be complied by the petitioner, the lease deed has not been registered solely on the ground that the sand block which was

proposed to be allotted to the petitioner was beyond potential zone. At present, **The West Bengal Sand (Mining Transportation, Storage and Sale) Rules, 2021** is in force with its full effect.

Rule 34 of the said **2021 Rules** provides that, all applications for grant of sand mining lease received prior to the commencement of the **2021 Rules**, wherein the sand mining lease deed has not been duly registered, shall be registered only after permission from the State Government.

In view of the operation of the said **Rule 34** of the **2021 Rules** the expression used therein being “**shall**”, it is the obligation of the appropriate authority to register the necessary lease deed after obtaining permission from the State Government.

In view of the above, the respondent No. 4 is directed to take immediate steps in the matter on the basis of the existing records and materials to carry out its obligation following the provisions under **Rule 34** of the said **2021 Rules** upon compliance of all the formalities in accordance with law.

This exercise shall be carried out and completed by the respondent No. 4 positively within a period of **six weeks** from the date of communication of this order. If necessary, the respondent No. 4 shall call upon the petitioner for any assistance, when the

petitioner shall provide all necessary assistance to the respondent No. 4.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 28982 of 2023** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)