

25.03.2026
Sl. No.59(DL)
Ct. No.14
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 5862 of 2023
(Specially Assigned)**

Nunnehaar Bibi

Versus

The District Magistrate, Birbhum & Ors.

Mr. Murari Mohan Das,
Sk. Musior Rahman

...for the Petitioner.

Mr. Chandi Charan De, AGP
Mr. Anirban Sarkar,
Mrs. Chandana Ghosh

...for the State.

1. By the present writ petition, the petitioner seeks for setting aside and/or cancellation of the order dated 18th October, 2022 passed by respondent no.2, Additional District Magistrate and District Land & Land Reforms Officer, Birbhum in Case No. M & M/17 of 2022 as well as order No.243-CI/D/3L-238/1999 dated 12th March, 2001.
2. The petitioner contends that her husband filed an application on 17th April, 1996 before the appropriate authority for grant of long-term mining lease under the West Bengal Minor Mineral Rules, 1973 (*hereinafter referred to as the 'Rules of 1973'*) in respect of Plot No.1212 of mouza Palitpur, J.L. No.132, District-Birbhum for an area of ten acres. As the respondent authority did not consider such application, the husband of the petitioner filed a writ

petition being W.P. No.19165(W) of 2001. An interim order was passed in the said writ petition. By dint of such interim order, the husband of petitioner continued to extract sand. The husband of the petitioner was subsequently stopped from extracting sand. Being aggrieved by such action, the husband of the petitioner once again approached this Court in W.P. No.16782(W) of 2016. During the pendency of the said writ petition, the husband of the petitioner expired and the petitioner, being his widow, was substituted in the said proceeding in place of the deceased petitioner. Pursuant to direction of this Court, the respondent No.2 passed the impugned order rejecting the claim of the petitioner. Hence, this writ petition.

3. Mr. Murari Mohan Das, learned Advocate appearing for the petitioner submits that the prayer of the petitioner was rejected precisely on the ground that the area applied for mining lease is situated within 200 mtrs. from an under constructed river bridge and 'pucca' road. This aspect was never disclosed earlier and therefore the ground appears to be vague and not sustainable. He seeks for setting aside of the impugned order.
4. On the contrary, Mr. Chandi Charan De, learned Additional Government Pleader appearing for the State submits that the order dated 12th March, 2001 clearly records that the area applied is within 200 mtrs. of

newly constructed river bridge. Therefore, such argument advanced on behalf of the petitioner that the fact was not disclosed earlier does not stand to reason. He seeks for dismissal of the writ petition.

5. It appears from annexure P1 that the husband of the petitioner made an application on 17th April, 1996 before the appropriate authority for grant of long-term mining lease under the Rules of 1973 in respect of Plot No.1212 of mouza Palitpur, J.L. No.132, District-Birbhum for an area of ten acres. Upon going through the impugned order under challenge dated 18th October 2022, it is found that prior to deciding the prayer of the petitioner for grant of mining lease a feasibility report was called for from an appropriate authority. Pursuant thereto, feasibility report was submitted by Mining Officer-in-Charge, Suri Zone. During the course of hearing such feasibility report has been taken into consideration by respondent no.2. The order clearly records that the area applied for mining lease was situated within 200 meters from the under-constructed river bridge and '*pucca*' road, therefore, DL & LRO did not recommend the said mining lease application of the petitioner. The application of the petitioner's husband was also rejected on 12th March, 2001 and similar fact was taken into consideration that the applied area is within 200 meters from the newly constructed river bridge. Such being the position, the argument

advanced on behalf of the petitioner that the fact of a newly constructed river bridge within 200 mtrs was not disclosed earlier does not stand to reason.

6. Rules of 1973 was promulgated by the State Government to regulate grant of quarry leases, mining leases and other mineral concession in respect of minor minerals and for the purposes connected therewith. Rule 5 lays down the procedure for making an application for grant of mining lease in respect of minor minerals. Rule 7 provides for disposal of such lease application. Rule 8 empowers the State Government or its authorised officer to refuse for grant of mining lease by recording reasons in respect of the whole or part of the applied area.
7. Nothing could be demonstrated by the petitioner during hearing regarding any infirmity in the impugned order save and except that the aspect of the newly constructed river bridge was not disclosed earlier. Such ground is already found to be not sustainable. In exercise of powers under Rule 8 of the Rules of 1973, the authority concerned has passed order rejecting the prayer of the petitioner for grant of mining lease recording its reasons and therefore it does not call for any interference in the absence of cogent grounds been shown.
8. In light of the above discussion, this Court finds that there is no infirmity in the impugned order under challenge.

9. Accordingly, the writ petition being **WPA 5862 of 2023** stands dismissed.
10. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
11. Interim order, if any, stands vacated.
12. All connected applications, if any, stand disposed of.
13. There shall be no order as to costs.
14. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
15. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)