N.22Sl

151/CL
12.11.26
DL-31
Ct.-19
(S.R.)

WPA 13114 of 2026

Ashim Kumar Panja
v.
The State of West Bengal & Ors.

Mr. S.S. Arefin
Ms. Anamika Jana ... for the petitioner.

Mr. Nilanjan Bhattacharya
Mrs. Jayita Dhar Chakraborty
Mr. Nilanjan Pal ... for the State.

Mr. Sanjay Saha
Mr. Raju Mondal ... for the respondent no.7.

1. The writ petitioner, the respondent State and the private respondent no.7 are represented by their respective counsel.
2. The subject matter of the instant writ petition is the order dated 12.02.2026 as passed by the Additional District Magistrate and the District Land and Land Reforms officer, Purba Bardhaman.
3. At the time of hearing, Mr. Arefin, learned advocate appearing on behalf of the writ petitioner submits before this Court that mistakenly in the prayer portion of the instant writ petition the date of the impugned order has been typed as 20.12.2024, which is incorrect rather the subject matter of challenge in the instant writ petition is the order dated 12.02.2026 as passed by the respondent no.9 authority.
4. In course of their submissions, Mr. Pal, learned

advocate appearing on behalf of the respondent State and Mr. Saha, learned advocate appearing on behalf of the respondent no.7/Corporation conjointly submits before this Court that under Rule 51 of the West Bengal Minor Minerals Concession Rules, 2016 ('the said Rules' in Short) the appropriate remedy of the writ petitioner is to prefer an appeal before the jurisdictional Divisional Commissioner. At this juncture, this Court proposes to look to Rule 51 of the said Rules, which is quoted hereinbelow in verbatim: -

*"**51. Appeal**. - (1) Any person aggrieved by an order made by the District Authority or any officer duly authorised by the District Authority in exercise of the powers conferred upon him by these rules, may, within thirty days from the date of communication of the order to him, prefer an appeal against the order.*

(2) The memorandum of appeal shall be made to the concerned Divisional Commissioner, if the order appealed against has been passed by the District Authority.

(3) Each memorandum of appeal shall be accompanied by a treasury challan showing the deposit of a fee of Rs. 1000 (rupees one thousand) only in the Government Treasury or sub-Treasury of the District concerned or in any branch of the State Bank of India doing treasury business or in the Reserve Bank of India at the credit of the State Government under the specified head.

(4) An appeal may be entertained even after the period specified in sub-rule (1)(a), if the applicant

satisfies the appellate authority that he had sufficient reasons, for not preferring the appeal within the prescribed period.

(5) The order passed on an appeal shall be final and there shall be no second appeal."

5. On careful perusal of the aforementioned legislative provision, it appears that the subject matter of challenge of the instant writ petition is appealable one and despite availability of suitable alternative efficacious remedy, the writ petitioner has approached this Court in its high prerogative writ jurisdiction, which is not permissible in the eye of law.
6. Consequently, the instant writ petition fails and is hereby dismissed.
7. However, considering the fact that the present writ petitioner is pursuing his remedy before a wrong forum, this Court permits the writ petitioner to prefer an appeal before the jurisdictional Divisional Commissioner impugning the order dated 12.02.2026, as passed by the respondent no.9 authority within thirty working days from today and, in the event, such an approach is made, the jurisdictional Divisional Commissioner shall entertain the said appeal considering the said appeal has been filed within the period of limitation.

8. There shall, however, no order as to costs.
9. 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.)