
(2003) 07 CAL CK 0055
In the Calcutta High Court
Case No : Writ Petition No. 8174 (W) of 2003

Basudev Mondal

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 10-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 CALLT 459

Hon'ble Judges : Dipak Prokash Kundu, J

Bench : Single Bench

Advocate : Jiban Ratan Chatterjee for the Added parties, L.C. Bihani and Sushanta Kumar Rakshit, for the Appellant; Manjari Gupta and Ruma Mukherjee, for the Respondent

Judgement

D.P. Kundu, J.—Affidavit-of-service filed in Court, be kept on record.

2. By consent of parties, the application for addition of parties being CAN 4627/2003 is treated as on Day's list and the applicants in the said application are added as party-respondents in this writ proceeding.

3. The Department is directed to correct the cause title accordingly by adding the names mentioned in the application as party-respondents.

4. The writ petitioner in this writ application, inter alia, prayed for an order of writ in the nature of Mandamus commanding the respondents to consider and dispose of the petitioner's application for long term mining lease dated 12.8.92 being annexure-P-1 of the writ application.

5. From annexure P-1, it is evident that the application in respect of which lease is required. Is Plot No. 3125/3126 Mouza- Saharjora, J.L. 26, District- Bankura. It appears from the application CAN 4627/2003 that the applicants in the said application, have also made an application for lease in respect of the aforesaid Plot Nos. 3125/3126, Mouza-Saharjora, J.L. No. 26, B.S. Barjora, District Bankura. In my view, if one application is allowed, then the other should be

rejected.

6. In *Ashbacker Radio Corporation v. F.C.C.* it was held that where two bonafide applications are mutually exclusive the grant of one without a hearing to both deprives the loser of the opportunity of hearing law chose to give him.

7. Following the *Ashbacker's* doctrine, I direct the respondent No. 3 the Joint Secretary to the Government of West Bengal, Commerce & Industries Department, Mines Branch, Writers' Buildings, Calcutta-700 001 to consider the application made by the writ petitioner and also the application made by the applicants in CAN 4627/2003 and also other applicants for lease in respect of the said Plot of land 3125/3126 after affording just, fair and reasonable opportunity of oral hearing to each of the claimants. Respondent No. 3 is directed to take a decision in accordance with law being supported by reasons, within six weeks from the date of communication of the order. A copy of the reasoned order should be furnished to each of the claimants within two weeks from the reasoned order. Till the reasoned order is communicated to the claimants, status quo order in respect of the aforesaid Plot No. 3125/3126 Monza-Sahar Jan, J.L. No. 26, District- Bankura should be maintained by all concerned.

In these terms both the writ application and the application CAN 4627/ 2003 are disposed of.

Xerox certified copy of the order if applied for by the parties urgently, the same shall be supplied expeditiously, as usual terms.