

Item.16

05.12.2024
ssi

Ct. 17

WPA 29024 of 2024

**West Bengal Power Development Corporation Limited & anr.
-vs-
Union of India & ors.**

Mr. Abhrajit Mitra, Sr. Adv
Mr. Chayan Gupta
Mr. Samriddha Sen
...for the petitioners

Mr. Swapan Kumar Nandi
Ms. Banani Bhattacharya
...for the respondent nos. 1 to 3

Learned senior counsel representing the petitioners submits as follows. The petitioners were granted a Coal Block for mining purpose. Although the date for opening of the mine was supposed to be in 2015, the mine opening permission was actually given on 17.03.2020. It was admitted that the petitioners were not responsible for the delay in opening the mine. It takes few years to get the mines ready for extracting minerals. Here, even for the year 2019-2020, the production was to be 0.5. Since mine opening permission was granted in 2020, production could have started only in 2024. In fact, the production has already started. In such circumstances, the respondent authorities could not have insisted upon the yearly performance parameter requirement for the period of 2020-2024 as pegged initially. In similar circumstances, this Court had

been pleased to grant stay on the resolution of the respondent authorities and restrained them from appropriating performance security of the petitioners. Reliance is placed on the order dated 09.06.2023 passed in WPA 13471 of 2023 and the order dated 24.09.2024 in WPA 13471 of 2023.

Learned counsel appearing on behalf of the respondent nos. 1 to 3 denies the allegations and opposes the prayer. He relies on the schedule of performance that the petitioner was to adhere to.

It appears that the petitioner was admittedly not responsible for the delay in opening of the mine. If permission to open the mine is given at a later date, the performance requirement should also be adjusted accordingly.

In view of the above, the respondent nos. 1 to 3 are restrained from appropriating performing security of the petitioners till 10.1.2025.

Let the matter appear for hearing before the Regular Bench under the same heading on 03.01.2025.

In the meantime, the parties shall be at liberty to exchange affidavits.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)