

HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 134 of 2025

Communist Party of India (Marxist).
(In short CPI (M).

.....Petitioner

Versus

The State of Tripura & Ors.

..... Respondents.

For the Petitioner(s)	:	Mr. DK Daschawdhury, Advocate.
For the Respondent(s)	:	Mr. SM Chakraborty, Advocate General. Mr. Kohinoor N. Bhattacharya, G.A. Mr. B. Debbarma, Advocate. Ms. P. Chakraborty, Advocate.
Date of hearing	:	20.03.2025.
Date of delivery of Judgment & Order	:	20/ 03/2025.
Whether fit for reporting	:	YES

BEFORE
HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (Oral)

This present Writ Petition has been filed under Article 226 of the
Constitution of India, seeking the following reliefs :-

- “(i) Admit this writ petition;
- (ii) Issue notice upon the respondents;
- (iii) Issue writ in the nature of mandamus asking the respondents to show cause as to why the schedule land shall not be allotted in favour of the petitioner as per provision of section 14 of the Tripura Land Revenue and Land Reforms Act, 1960;
- (iv) Issue a writ of certiorari asking each of the respondents to show cause as to why the Schedule land shall not be restored to the possession of the petitioner immediately.
- (v) Issue rule of the Hon'ble High Court after considering the reply of the respondents and hearing both the parties in the light of the items (iii) and (iv) above;

AND

(vi) Pass any other writs/orders as the Hon'ble High Court deems fit and proper"

[2] It is the case of the petitioner that the deponent being the Secretary of local committee is duly authorised to file this writ petition and the petitioner being local Committee of CPI(M), a political party recognized by Election Commission of India is having *locus standi* to file this writ petition.

[3] The crux of the case is that the petitioner is in possession over 0.20 acres of Government Khas land vide Khatian No. 1/50 R.S Plot No.2814 of Mouja and TK -Nutanbazar, Amarpur, Sub-Division, Gomati District, Tripura. It is also his case that in 1986, a temporary house to accommodate his office for performing the activities of his political party, has also been raised and therefore, by referring to the schedule in the affidavit filed, the petitioner is seeking for allotment of this said land.

[4] The counsel for the petitioner Mr. DK Daschawdhury, represents that TTAADC on 25.10.2011, addressed to the SDM seeking the request for allotment of the land. While the matter stood thus, the respondent No.2 issued a notice dated 10.09.2024 to vacate the premises within 03 days by referring the order of Hon'ble High Court and also stating that an unauthorized construction have taken place in the Government land. The petitioner also submits reply dated 20.09.2024 to the said notice and the same is pending. He further submits that the petitioner is in the possession since 1986 by raising a construction in the property which is the subject-matter of this writ petition and the said land belongs to TTAADC. He further draws the attention of this Court to a corresponding letter dated 25.10.2011 issued by the Principal Officer (LRS) TTAADC, Khumulwng, addressed to the Sub-Divisional Magistrate, Amarpur South Tripura. In the said correspondence to convey the approval of TTAADC for allotment of the said land and further sought to do the needful.

[5] In this regard, the learned counsel refers to a memorandum dated 14.10.1999 issued by Chief Executive Officer, TTAADC and submitted that Autonomous District Council (ADC) is only competent authority to allot land to any individual or for any purpose. Therefore, the communication dated 25.10.2011 has no bearing and so, the subject land to be allotted to the petitioner. The arguments are confined to this only. Therefore, he prayed to allow the Writ petition by passing orders of allotment of scheduled land.

[6] Mr. SM Chakraborty, learned Advocate General appearing for State represents that the writ petition is not maintainable. The petitioner is an unauthorized occupant and cannot claim any allotment of land and is having no *locus standi* and the relief sought for by the petitioner cannot be granted under Article 226 of the Constitution of India. He also stated that the petitioner has suppressed the fact with regard to the earlier order dated 23.08.2018 passed by this Court in WP(C) No.637 of 2018 referred in the notice dated 10.09.2024 which are decided against the petitioner by dismissing the writ petition and the order became final, and it is now not open for the petitioner to again come back before this Court. He also placed reliance on the judgment of Hon'ble Apex Court in **State of M.P. and Others Versus Sanjay kumar Pathak and Others** reported in **(2008) 1 SCC 456** and **Vijaynagar Industrial Workers Housing Co-operative Society Ltd. versus State of Karnataka and another** reported in **AIR 1998 KARNATAKA 361** and prayed to dismiss the petition.

[7] Mr. B. Debbarma, learned counsel appearing for TTAADC represents that the proceeding referred in 25.10.2011 is only a proposal and that is not final allotment order. The entire allotment has to be done by the revenue department and the petitioner has to be put in possession by way of Panchanama by metes and bounds. The memorandum issued on 14.10.1999 by Chief Executive Officer, TTAADC has no relevance and is not subsisting

and in view of the change in circumstances, he prayed to dismiss the petition.

[8] The case of the petitioner is that, on 25.10.2011 a communication was issued addressing to the SDM, Amarpur, Sub-Division, South Tripura and a notice dated 10th September 2024 has been issued by the SDM directing the petitioner to vacate the premises within 03 days, since they are in a possession of Government property and raised construction. To the said notice, the petitioner preferred a reply on 20th September 2024. The same is pending with the respondents. Reliance has also been placed on a memorandum dated 14.10.1999 issued by the CEO,TTAADC. Now, the present writ petition is filed seeking the relief as stated (Supra).

[9] According to the learned Advocate General, the petitioner is an unauthorised occupant and made unauthorised construction and the notice dated 10th September 2024 has not been challenged in this present writ petition except giving the reply and the cause of action which the petitioner now seeks to the effect of the communication dated 25.10.2011 is concerned, the same cannot be now considered for granting any relief.

[10] Mr. DasChawdhury, learned counsel for petitioner in reply submits before this Court that the original allotment made in 2011 was in respect of local committee who is the petitioner herein and thus, the issue of *res judicata* would not arise and also the question of referring to any writ order referred in the notice would not amount to *res judicata* since, the petitioner is having no knowledge of the same, accordingly, he has not said so about the said litigation in the writ petition nor in the reply dated 20th September 2024.

[11] Earlier this matter was listed on 13.03.2025 and it is seen from the said order dated 13.03.2025, that after hearing the petitioner, the same has been adjourned at the request of learned Addl. Government Advocate for

obtaining instructions. Accordingly, as per the said order, the matter is listed today.

[12] Admittedly, as seen from the record the petitioner is in possession of land pertaining to TTAADC and made an unauthorised construction. There is no reference made in the affidavit by the petitioner to say that the petitioner has been put in possession in pursuance of the said allotment order by way of any Panchanama and handing over the physical possession. No final orders of allotment are passed except proposal dated 25.10.2011, which has not attained the finality as it is clearly seen from the said letter that it is only directing the SDM as follows"-

".....this is for your kind information and doing the needful".

[13] The petitioner has also not indicated either in the reply to the notice nor in the affidavit that they have taken the possession of the land as per law and on obtaining the due permission from the concerned authorities they made any construction.

[14] The petitioner has not placed any legal position before this Court to show that the petitioner is entitled for such allotment that too, more particularly, when the land belongs to TTAADC and further no evidence has been placed on record to show that the petitioner is not facing any disqualification and is entitled for obtaining the said land. In view of the said disputed questions of fact, and the relief sought without any supporting factual or legal position, this Court cannot direct the respondents to allot the land as claimed by the petitioner under Article 226 of the Constitution of India.

[15] In the absence of all such relevant things, this Court feels that the content of the notice and the submissions made by the learned Advocate General supports the case of the respondents. The writ petition being WP(c) No. 637 of 2018 filed by the CPI(M) represented by its Tripura State Committee Secretary, Sri Bijan Dhar stood dismissed on 23.08.2018 and it

became final as it is unchallenged. It is the State Secretary who represents the party and the State Secretary could have addressed the grievances in support of their legal right, if any, but the local committee without placing any proper authorisation on record, has filed present writ petition.

[16] Viewed from any angle, the petitioner has failed to convince this Court on the point of factual issue and also legal issue to say that the petitioner is entitled to possess the land belonging to TTAADC. Therefore, the writ petition fails and the same is liable to be dismissed.

[17] After hearing both sides when this Court is amidst of dictating the order, request is made by the petitioner's counsel to withdraw the writ to which the learned Advocate General has opposed and said that after completing the elaborate arguments and at the verge of dictating the order, it is not proper for permitting the withdrawal of the case.

[18] Considering the said submissions made above and the reasons recorded herein, the present writ petition stands dismissed.

[19] Since, there is no challenge to the notice dated 10.09.2024 and the reply which is pending with the respondents, no arguments are advanced and no relief is sought for, thus, no observation is made in this regard and no relief is granted.

[20] Accordingly, the instant writ petition stands dismissed. As a sequel, miscellaneous application(s) pending, if any, shall stand closed.

JUDGE

Paritosh

SABYA
SACHI
GHOSH

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by SABYASACHI
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