

S/L 52
05.10.2020
Ct. No. 23
GB

W.P.A 6659 of 2020
CAN 1 of 2020 (Old No. CAN 5518 of 2020)

Capt. Abhishek Sahay & Ors.

Vs.

The State of West Bengal & Ors.
(Through Video Conference)

Mr. Mainak Bose,
Mr. Teesham Das.

...for the Petitioners.

Mr. Anubhav Sinha,
Ms. Pallavi Ray.

...for Respondent No.3.

Mr. Ashish Shah.

...for Respondent No.4.

Mr. Ranabir Roy Chowdhury,
Mr. Mainak Gupta.

....for the State.

The petitioners submit that the competent authority under the West Bengal Apartment Ownership Act, 1972 has failed to dispose of the representation which is Annexure-p11 at page-63 to this application. It is submitted that the said representation was sent on July 17, 2020 with regard to the illegal selection of 24 Board of Managers and officials of Ideal Villa Apartment Owners Association.

Mr. Bose, learned advocate for the petitioners submits that the authority be directed to consider and dispose of the said representation on urgent basis. It is submitted on behalf of the respondent Nos. 3 and 4 that dispute between members cannot be decided in a writ petition and neither

before the competent authority and the remedy of the petitioners was in a Civil suit.

Upon hearing the learned advocate for the petitioner and upon going through the records, I find that the prayer of Mr. Bose is innocuous. Without going into the merits of the claims of the petitioners and the respondents, this writ petition is disposed of with a direction upon the competent authority under the West Bengal Apartment Ownership Act, 1972 to dispose of the representation appearing at page-63 of the writ petition marked as Annexure-P11 within a period of two weeks from the date of communication of this order upon hearing all concerned parties including the petitioner and the respondents and others who are likely to be affected by any decision to be taken as per direction of this Court. 48 hours prior notices should be sent to all parties intimating the date of hearing. A reasoned order should be passed and communicated to all. The petitioner is directed to serve a copy of the representation along with a server copy of this order and the concerned authority, that is, respondent no.2, who shall act on the basis of the same. If the competent authority does not have jurisdiction to settle the issues raised in the representation, then the competent authority will be at liberty to pass necessary order accordingly. This order shall not be construed as an order empowering an authority to act beyond the scope of the statute and rules

Accordingly, WPA 6659 of 2020 along with CAN 1 of 2020 (Old No. CAN 5518 of 2020) are disposed of.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)