

03.12.2020
DL-7
ns Ct.24

**W.P.A. No.7314 of 2020
(I.A. No.CAN 1 of 2020)**

**Susmita Saha Paul.
Versus
State of West Bengal & Ors.**

Mr. Debabrata Saha Roy,
Mr. Pingal Bhattacharya,
Mr. Subhankar Das,
Mr. Neil Basu For the petitioner.

Mr. Srijan Nayek,
Mr. Ankit Sureka,
Mr. Partha Sarathi Pal ... for the State.

Mr. Ujjal Roy ... for respondent nos.8 to 10.

CAN 1 of 2020 is disposed of by taking up the writ petition for consideration.

Petitioner seeks transmission of the shares held by her deceased husband in a cooperative society.

State and the cooperative society are represented.

On repeated queries from the Court both to the cooperative society and the State, none of them are willing to take any measure to transmit the shares of the deceased in favour of the petitioner.

There is nothing on record to dispute the right of the petitioner to have the shares held by her deceased husband in the society transmitted in her favour. The

petitioner is the widow of the deceased shareholder in the cooperative society. The only ground on which the cooperative society insist is a succession certificate. State claim that despite the Registrar requiring the cooperative society to take appropriate steps, the cooperative society did not respond.

With respect and as conceded on behalf of the cooperative society, a succession certificate is not required in respect of an immovable property.

The deceased died on July 30, 2017. The cooperative society is yet to receive any rival claim so far as the request for transmission is concerned. The petitioner otherwise provided the cooperative society with all necessary documents for the purpose of transmission. There is a pending application for transmission. There is no reason to withhold the transmission and admit the petitioner as a member of the cooperative society.

In view of the intransigent stand taken by both the State respondent as well as the cooperative society, and in view of the failure of the Registrar to ensure that a member of the public as that of the petitioner does not suffer the harassment that the petitioner is suffering it would be appropriate to stop the salary of the respondent no.4 till such time the petitioner receives the record of transmission in her favour and is admitted to the society as a member.

It is contended on behalf of the State that the order of stay of salary is harsh and that 48 hours time be granted for the Registrar to do the needful. Again with respect, the Registrar ought to have taken steps so that the matter did not reach this stage. A citizen cannot be made to run from pillar to post and thereafter approach a Constitutional Court to redress a grievance which ought to have solved by the Registrar. Under this order, Registrar is not being deprived of his salary for all times. He can draw his salary as soon as the grievance of the petitioner is redressed. He is obliged to have the grievance of the petitioner redressed. So long as he fails to discharge his obligations, the tax payer need not be burdened.

Neither this order, nor the pendency of the writ petition will prevent the State respondents from proceeding against the cooperative society, in accordance with law.

List the writ petition before the appropriate Bench a fortnight hence.

(Debangsu Basak, J.)