

22.01.2021
Sl. No.14
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4985 of 2020
(Assigned)

Subhodeb Chaudhuri
Vs.
The State of West Bengal & Ors.

(via video conference)

Mr. S. Ray,
Mr. A. K. Jha

....for the petitioner.

Mr. Swapan Kumar Dutta,
Mr. Tapas Kumar Mondal

....for the State.

On being granted a lease for seven years in respect of a portion of Gangapath-Islampur Jalkar 557, the petitioner encountered a difficulty in carrying out pisciculture and fishing thereat. The petitioner's grievance was addressed by a resolution of hearing dated 20th November, 2018. The relevant portion of the said resolution is set out:-

“Whereas it also appears from the enquiry report that the instant Lessee is catching fish within the stipulated area as per lease.

Whereas it is found a misconception among all regarding the main flow of river Ganga and its cannels.

Thus it is concluded that the instant lessee will continue pisi-culture in the stipulated/defined area of Gangapath Islampur and common fisher-man of that locality will catch fishes from the main stream of the river Ganga.”

The petitioner thereafter made a representation on 23rd October, 2019. It appears from the record that

the petitioner also made an application for decreasing the yearly lease rent on 31st October, 2019. This application was rejected by an order dated 22nd November, 2019 passed by the Additional District Magistrate and District Land & Land Reforms Officer, Malda. The petitioner says that the rejection of the application dated 31st October, 2019 by the order dated 22nd November, 2019 does not dispose of the petitioner's representation dated 23rd October, 2019. The petitioner says that by the resolution dated 20th November, 2018, the area actually allotted to the petitioner has been decreased.

On query from Court, it is submitted on behalf of the petitioner that the resolution dated 20th November, 2018 allows the petitioner to continue pisciculture in the stipulated area of Gangapath-Islampur Jalkar 557 and the common fishermen of the locality are allowed to catch fish from the main stream of river Ganga. The petitioner says that by this resolution, the area in which the petitioner is allowed to continue with the pisciculture has been reduced from the area originally allotted under the tender to the petitioner. The reduction has taken place as the petitioner is unable to utilise the entire area since the local fishermen have been permitted to pass through the petitioner's allocated area and are catching fish in the area which has been actually allotted to the petitioner. The

petitioner, therefor, seeks redressal of all issues raised in the petitioner's representation dated 23rd October, 2019.

On behalf of the State, it is submitted that the petitioner is inviting the writ Court to go into the factual details which is impermissible. Watch and ward by the Government agency over the fishermen allegedly catching fish in the area allotted to the petitioner cannot be done round the clock. It is the responsibility of the petitioner to protect its own interest by preventing the fishermen from carrying of fishing activity within the petitioner's allotted area. Moreover, the resolution dated 20th November, 2018 is very clear and specific. The local fishermen have been allowed to catch fish in the main stream of river Ganga and not in the Jalkar allotted to the petitioner. It also appears from the order dated 22nd November, 2019 that the petitioner's prayer for reduction of the yearly lease rent has been duly considered and rejected. There is as such no gray area for which the petitioner's representation dated 23rd October, 2019 is required to be reconsidered. It is submitted on behalf of the State that the writ petition should be dismissed.

After going through the representation dated 23rd October, 2019, it appears that the petitioner has sought for reduction of the yearly lease rent for the Jalkar allotted to it on the basis of allegation as

contained in the said representation. The prayer for reduction of yearly lease rent has been considered and rejected. The petitioner, therefor, cannot have any further grievance in the matter for which the petitioner's representation is required to be sent for reconsideration.

The only protection that the petitioner can get is a direction upon the concerned police authority to ensure that the decision taken in the resolution dated 20th November, 2018 is strictly followed.

The writ petition is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)