

24.09.2021
Court No. 19
Item no.18
CP

WPA 13063 of 2021

Taslim Piyada & ors.
Vs.
The State of West Bengal & Ors.

Mr. Tapas Manna
Mr. Pankaj Halder
... for the Petitioners.

Mr. L. Bhattacharya
.....for the respondents 13 to 16, 18 and 19

Mr. T. Siddiqui
S.S. Siddiqui
... For State Respondents

Petitioners are job card holders. According to the petitioners they were entitled for allotment of work under the MGNREGA, 2005. The petitioners claim that they are skilled labourers and the 100 days' work under the said scheme should have been given to the petitioners instead of respondents 13 to 19. According to the petitioners, these respondents are already gainfully employed and as such, not entitled to get any work under the MGNREGA.

Mr. Bhattacharya, learned advocate appearing on behalf of the respondents 13 to 16, 18 and 19, submits that 100 days' work under the MGNREGA was given to these respondents before they were employed in any other departments or before they

were running their respective businesses. He contradicts the allegations made in paragraph 5 of the writ petition.

In paragraph 5 of the writ petition, the petitioner has enumerated the kind of work and/or employment the respondents 13 to 19 are engaged in. It is submitted that allotment of work under MGNREGA to these persons who were otherwise employed or were running their businesses was only to siphon off all the funds allotted under the scheme. This has resulted in the deprivation of the right of the petitioners to set work as they live below the poverty line.

The petitioners have lodged complaints before the Block Development Officer, Mathurapur – I Block, and also to the District Magistrate, South 24 Parganas against the allotment of 100 days work to the respondents 13 to 19.

This court is of the opinion that the matter has to be decided by the District Magistrate concerned by disposing of the application of the petitioners dated August 10, 2021 in accordance with law upon hearing the petitioners as also the respondents 13, to 19. While disposing the same, one representative from either party shall be entertained at the hearing. All documents in support of the contentions of the respective parties shall be produced by the said

representative before the District Magistrate. The District Magistrate shall have the liberty to call the service records from the employers of some of the alleged respondents, if required.

Upon considering all documents that will be produced by the parties and upon hearing their submissions, a reasoned order shall be passed and communicated to all.

The District Magistrate shall also ensure that future allotment of work shall be done as per the procedure norms and in accordance with law. If the District Magistrate is of the opinion that allegation of the petitioners are correct, then the District Magistrate shall be entitled to take such corrective measures as permitted by law against the panchayat authorities and the respondents Nos. 13 to 19.

The entire exercise shall be completed within a period of five months from the date of communication of this order.

As no affidavits have been filed before this court, all allegations are deemed to be denied.

However, it is the District Magistrate who will decide the entire issue on the basis of all the documents to be produced by all the parties including those documents to be produced by such persons who may be able to apprise the District Magistrate as to whether the respondents 13 to 19

were either employed or running their businesses at the time when the work was allotted to them under the schemes.

This writ petition is, thus, disposed of. There will be, however, no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)