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12.04.2021
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Ct23

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 12995 of 2019

Pallab Kumar Basu & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Tanay Chakraborty,
Mr. Rajiv Lochan Chakraborty
Ms. Vaswati Chakraborty,
Mr. Priyanjit Kundu
... For the petitioners.

Mr. Raja Saha,
Mr. Amit Kumar Ghosh
... For the State.

Mr. Ranajit Chatterjee,
Mr. Arnab Das,
Mr. Sagar Chakraborty
... For the respondents no.4 to 7.

It is submitted by the advocates appearing for the parties that the notification issued by this Court on 11th April, 2021, was noticed at a belated stage and as such, they are appearing physically in Court.

Since, all the parties are represented, the matter is taken up on physical mode instead of virtual mode.

By an order dated 2nd March, 2021, the respondent no.3 was directed to file a report as to the following:-

“(i) Whether the petitioners are the members of the respondent no.4 as per the information filed before it;

- (ii) As to when the records pertaining to the respondent no.4 was lastly filed with the office of the respondent no.3;
- (iii) Did the said respondent no.3 take any step pursuant to receipt of the complaint made by the petitioners on 13th March, 2019 and 1st April, 2019, if so what steps have been taken.”

A report dated 22nd March, 2021 has been filed. In answer to the question no.(ii) as mentioned in the order dated 2nd March, 2021, the Registrar of Firms, Societies & Non-Trading Corporation, West Bengal in his report dated 22nd March, 2021 has replied as follows:-

“The on line registration and up loading of documents have been started since the year 2018. The Society has not filed any Annual Return since the starting of on line system. Only legacy entry has been up loaded on 13.03.2021 to register the society from off line to on line process. From the application of Legacy entry up loaded, it is found that the last Annual Return has been submitted in the off line era up to 31.03.2013.”

It is, therefor, evident that the respondent no.4, being Sealdah Paikari Matsya Byabasayi Samity has filed its annual return up to 31st March, 2013. It is also evident from the report that the online

registration and uploading of documents have been started by the Registrar of Firms, Societies & Non-Trading Corporation, West Bengal, since 2018. The document of legacy to make the society online registered from offline, according to the said report, has taken place on 13th March, 2021, i.e., subsequent to the order dated 2nd March, 2021. After considering the report, I am, *prima facie*, satisfied that the respondent no.4 has violated the provisions of section 17 of the West Bengal Societies Act, 1961 and that of Rule 13 of the West Bengal Societies Registration Rules, 1963. This is, as such, a fit case where the Registrar of Firms, Societies & Non-Trading Corporation, West Bengal, should exercise his jurisdiction under section 22 of the 1961 Act. The report dated 22nd March, 2021 has been filed by the Registrar who is appointed by the State Government in terms of the provisions of section 3 of the 1961 Act. The State Government functions through its officers and does not have an independent mechanism to take cognizance of an “information received” in terms of section 23 of the 1961 Act. The report dated 22nd March, 2021 amounts to an information received under the provisions of section 23 of 1961 Act. The State Government in the instant case means the Department of Industry, Commerce and Enterprise, Government of West Bengal, having

its office at 5, Council House Street, 3rd Floor, Kolkata – 700 001. The Registrar shall forward a copy of the report dated 22nd March, 2021 to said Department of Industry, Commerce and Enterprise forthwith.

Since the said department is not a party to the writ petition, the writ petitioners are given liberty to add the said Department of Industry, Commerce and Enterprise, Government of West Bengal, as party respondent to the writ petition and serve a copy of such amended writ petition on the added respondent in the course of this week along with a copy of this order.

The said respondent through an appropriate officer shall investigate into the affairs of the society in terms of the provisions of section 23 of the 1961 Act.

The investigation shall be concluded within a period of six months from date. It is made clear that the investigating officer shall not be influenced by any finding in this order, as they are *prima facie* in nature, made for the purpose of adjudicating the instant writ petition and shall be free to carry out the investigation independently, fairly and transparently. Necessary steps as may be required to be taken by the Registrar and the concerned State authority in accordance with law as against the respondent no.4.

Nothing further remains to be adjudicated in the writ petition and the same is accordingly disposed of without any order as to costs.

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

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)