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29.11.2021
Ct. No. 4
rrc

WPLRT 60 of 2021
(Through Video Conference)

Rabin Naskar
VS.
The State of West Bengal & Ors.

Mr. Mahim Sasmal
Md. Hasanuz Zaman
.....For the petitioner

Mr. T. M. Siddiqui
Mr. N. Chatterjee
.....For the State

Md. Abdul Alim
Md. M. N. Chowdhury
.....For the respondent no. 6

The instant writ petition arises from a judgment/order dated 1st October, 2021 passed by the West Bengal Land Reforms and Tenancy Tribunal disposing of miscellaneous applications being M.A. 616 of 2020, M. A. 618 of 2020 and M.A. 130 of 2021 in O.A. 2679 of 2019.

The petitioner raised a grievance before the Tribunal in the aforesaid three applications that while disposing of the tribunal application on 3rd March, 2020, no opportunity of hearing was given to the petitioner nor any copy of the applications were ever served and, therefore, the Tribunal acted in violation of the principles of natural justice.

By the impugned order, the Tribunal disposed of the said applications holding that the grounds enumerated therein sans merit.

In course of hearing we find that the tribunal application was filed alleging inaction on the part of the Block Land & Land Reforms Officer, Canning – I, South 24-Parganas in disposing of the representation appearing at page – 34 (Annexure-F) to the tribunal application. The matter appeared before the Tribunal, who was of the view that once a party has approached the authority, it is the ardent duty of the authority to take a decision thereupon instead of keeping the same pending or in abeyance.

It is no doubt true that the party to the proceeding is entitled of a service of the pleading and an opportunity of hearing before any adverse order is passed against him. Any infraction runs counter to the ethos of the Constitution and the rights granted therein which cannot be supported at any costs under fiat of judicial review. Mere violation of the principles of natural justice does not *ipso facto* render the decision unconstitutional and/or unsustainable unless the Court finds the prejudice to have been caused.

The tribunal application was disposed of directing the Block Land & Land Reforms Officer to treat the tribunal application as representation and decide the same after giving opportunity of hearing to all the interested persons. The petitioner was a party to the tribunal

application and can be assumed to be an interested person as he had counter interest to the application therein.

Obviously, the authority cannot decide the matter without affording an opportunity of hearing to the petitioner and, therefore, mere apprehension that the authority would not adhere to such mandate is unfounded and unsustainable. There is no prejudice caused to the petitioner while passing an innocuous order by the Tribunal even if we accept the contention of the petitioner that there was no service of such application or no opportunity of hearing was given to him.

Obviously, the authority before embarking a journey of taking a decision shall supply the copies of the relevant documents including the tribunal application which is treated as representation in terms of the order of the Tribunal to the petitioner being an interested person and, therefore, merely on an apprehension of violation of such right is not accepted.

With these observations, the writ petition is disposed of.

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

We make it clear that all defences which are available to the petitioner if agitated before the authority, such authority shall decide the same by providing proper reasons therefor.

All parties shall act upon the server copy of this order duly downloaded from the official website of this Court.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)