

14.12.2021
Item No.14.
Court No.6.
S. De

Through Video Conference

**M.A.T. 1258 of 2021
I.A. No. CAN/1/2021**

Abdul Chhamad Malita & Ors.

Vs

The State of West Bengal & Ors.

Mr. Tulsi Das Ray,
Mr. Tirthankar Roy,
...for the appellants.
Mr. Anirban Ray, Ld. G.P.,
Mr. Raja Saha,
Mr. Biswabrata Basu Mullick,
...for the State.

By consent of the parties, the appeal and the application are taken up for hearing together.

The petitioners contended before the learned Single Judge that they have been engaged directly by the Public Health Engineering Department of the State. The State contended that the writ petitioners have been appointed by a separate agency. This is a point which has to be decided by the learned Single Judge. The writ petition is pending.

The writ petitioners have come up in appeal being aggrieved by the refusal of the learned Single Judge to pass an interim order directing the State to pay their salary which they say they have not received since February 2021.

We see from the order under appeal that the learned Judge, after inviting affidavits has recorded that the order will not prevent the petitioners from accepting the money from the agency.

Before us the State says that the agency has written to the State saying that they are agreeable to pay the salaries of the writ petitioners but the writ petitioners are not accepting such payment.

Mr. Ray, learned advocate appearing for the appellants says that his clients will accept the money offered without prejudice to their rights and contentions. He submits that his clients are direct employees of the Public Health Engineering Department of the State Government who are working under the Panchayat. This is vehemently disputed by learned advocate for the State.

We request Mr. Saha, learned advocate appearing for the State to ensure that the concerned agency pays the admissible salary of the writ petitioners/appellants for the period from February 2021 till date if not already paid. Such payment will be made and received by the concerned parties without prejudice to their rights and contentions in the pending writ petition. Such payment is to be made within ten days from date. The cheques that have been made out in the names of the writ petitioners shall be handed over to learned advocate representing

them namely Mr. Tulsi Das Ray. We are giving this direction since it has been contended on behalf of the State that, in the past, the writ petitioners have refused to accept the cheques. Handing over the cheques to the learned advocate for the writ petitioners shall leave no room for such a dispute. Whether or not the writ petitioners are direct employees of the Public Health Engineering Department of the State Government and are entitled to claim benefits of Government Circulars pertaining to casual workers shall be decided by the learned Judge in the writ petition. All points are left open for the learned Single Judge to decide.

We notice that the time granted by the learned Single Judge for the respondents to file affidavits has expired. The respondents shall be at liberty to file affidavit-in-opposition within one week after Christmas Vacation. Reply, if any thereto, be filed within a week thereafter.

Parties will be at liberty to mention the matter before the learned Single Judge after affidavits are complete.

The appeal being MAT 1258 of 2021 is, accordingly, disposed of along with the connected application being I.A. CAN 1 of 2021.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as

expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)