

10th December,
2021
(AK)
22

W.P.A 19693 of 2021

Lalu Ghosh alias Lalu Nath Ghosh
Vs.
The State of West Bengal & Others

Mr. Soumava Mukherjee
...for the petitioner.

Mr. Subhabrata Datta
Mr. Banni Brata Datta
...for the State.

Learned counsel for the petitioner contends that the order dated November 23, 2021 was passed contrary to the principles of natural justice inasmuch as the documents, on the basis of which the said order was passed, were not disclosed to the petitioner, although the petitioner is one of the alleged unauthorized occupants in terms of the said order.

Learned counsel contends that unless the grounds of allegations against the petitioner are disclosed, it will not be possible for the petitioner to give a meaningful reply to the show cause notice.

Learned counsel appearing for the State contends that there was no particular application in the present case but there was certain documents/communications, on the basis of which the order dated November 23, 2021 was passed and pursuant to such order, a notice was issued within the ambit of Section 3 of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act,

1962. As such, the petitioner cannot be given copies of any particular application in that regard.

That apart, it is argued that the petitioner has been consistently unable to furnish any proof in respect of his rights in respect of the property-in-dispute, which will also be reflected by an order dated December 16, 2019 passed by a coordinate Bench in W.P 22243 (W) of 2019.

It appears from the observations made in the referred order that the petitioners had forfeited their rights to have the papers verified before the BL & LRO in spite of an opportunity being given as recorded by the minutes of the meeting dated September 27, 2019 and November 7, 2019. Among other observations made by the learned Single Judge, it was also found that the petitioners would have the right to reply to show cause under Section 3 of the 1962 Act in the event such a notice was issued and that the application under Section 6 of the RTI Act, 2005 filed on behalf of the petitioner no.1 therein, was not akin to the process of the verification of papers by the BL & LRO.

Be that as it may, since a conjoint reading of the coordinate Bench order and the provisions of Section 3 of the 1962 Act clearly disclose that the alleged unauthorized occupant has a right to give a reply to the show cause issued under Section 3 of the said Act, it can be logically inferred that such right has to be a

‘meaningful’ right to be in consonance with the principles of natural justice.

Unless the writ petitioner is not intimated about the allegations made against the petitioner and the minimum basis thereof, it would not be possible for the petitioner to reply to the show cause notice meaningfully.

As such, WPA 19693 of 2021 is disposed of by directing the respondents to ensure that inspection of the relevant documents, on the basis of which the notice under Section 3 was issued and the impugned order was passed, shall be made available for inspection by the petitioner on December 21, 2021.

Prior to giving such inspection, the respondent authorities shall give a clear notice in writing to the petitioner as regards the proposed time of inspection.

After such inspection is duly taken by the petitioner, by himself and/or being assisted by any other person, professional or otherwise, the petitioner shall file his reply to the show cause notice dated November 23, 2021 on or before January 3, 2022.

It is clarified that the notice and the impugned order dated November 23, 2021 were passed within the jurisdiction of the respondent authorities and, as such, are not interfered with in this writ petition.

The parties shall act on the written communication of the learned advocates for the parties coupled with

server copies of this order instead of insisting upon prior production of a certified copy.

The respondents shall not take any measure for eviction of the writ petitioner prior to January 3, 2022.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)