

WPA 30238 of 2015

**Ziaul Haque Halder
Vs.
The State of West Bengal & Ors.**

**Mr. Keshab Chandra Das
Mr. Aparajita Mondal
Mr. Biplab Adak**

...for the petitioner

**Mr. Pabitra Charan Bhattacharjee
Mr. Subhajit Panja**

..for the respondent no. 4

The writ petition is taken up for hearing in presence of the learned advocate representing the writ petitioner and respondent no. 4, who is the contesting respondent in the present case. The subject matter of challenge in the present writ petition is the order dated 31st August, 2015 passed by the West Bengal Co-operative Tribunal on an appeal being Appeal No. 40 of 2011. Such appeal was preferred against the order of the Arbitrator dated 17th October, 2011 passed in Dispute Case No. 05 of 2010-2011. By the impugned decision of the appellate authority dated 31st August, 2015, the order of the Arbitrator dated 17th October, 2011 stood confirmed which is assailed in the present writ petition.

This Court has heard the learned advocates representing the writ petitioner as well as the respondent no. 4 and also considered the impugned decision of the appellate authority passed in Appeal No. 40 of 2011. On perusal of such decision of the appellate authority, it appears that the order of the Arbitrator dated 17th October, 2011 was confirmed on the grounds that Polba S.K.U.S Limited was neither made party in the Dispute Case nor the Secretary and Chairman of the said Co-operative Society were made parties. Simply making manager of the said society as a party in the dispute case, the same was instituted before the Arbitrator. Second limb of consideration by the appellate authority was the issuance of challan being nos. 1329, 1374, 1375 and 1377 by one Moyna Mondal which do not bear the seal of Polba S.K.U.S Limited. Those challans were not proved before the Arbitrator and Moyna Mondal who was alleged to have issued those challan, was not examined before the said Arbitrator.

Chiefly on the aforesaid technical grounds the order of the Arbitrator dated 17th October, 2011 was affirmed by the appellate authority. This Court grants leave to the writ petitioner to add Polba S.K.U.S Limited and its Chairman and Secretary, if present to be made party to the Dispute Case instituted before the Arbitrator by making necessary

application before the Arbitrator in this regard within a period of fortnight from this date. If such an application is made before the Arbitrator in consonance with the direction passed by this Court today within the aforesaid time, the Arbitrator shall pass necessary order for addition the Cooperative Society as well as its Chairman and Secretary as parties to the Dispute Case and immediately thereafter shall proceed to decide the Dispute Case expeditiously.

If the aforementioned steps are taken by the writ petitioner and Cooperative Society including its Secretary and Chairman are made parties, the Arbitrator shall proceed to hear out the Dispute Case and adequate opportunity shall be given to the writ petitioner to make out his case before the Arbitrator and if necessary, by examining the witnesses and producing necessary documents as evidence. The Arbitrator in his turn shall decide the issue as expeditiously as possible in accordance with law after taking steps, which have been indicated above.

Since the decision is taken by the appellate authority on Appeal No. 40 of 2011 dated 31st August, 2015 passed on technical grounds, the same stands set aside. The decision of the Arbitrator dated 17th October, 2011 is also set aside.

With the above direction, the writ petition is disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Saugata Bhattacharyya, J.)