

March 10, 2022
Sl. No.11
Court No.1
SG/s.biswas

FMA 485 of 2020
With
CAN 1 of 2019 (Old No.CAN 12515 of 2019)

Sankar Saha and another
vs.
The State of West Bengal and others

Mr. Firdous Samim,
Ms. Gopa Biswas,
Mr. Kabir Hassan, Advocates

... for the appellants

Mr. N. C. Bihani,
Ms. Papiya Banerjee Bihani, Advocates

... for the State

Mr. Arkadipta Sengupta,
Ms. Deboleena Ghosh, Advocates

... for the respondent Nos.8 to 12

This appeal is at the instance of the writ petitioners challenging the order dated 30.09.2019 whereby WP 18829 (W) of 2019 has been dismissed with costs of ₹2 lakhs on the ground that the appellants had adopted a sharp practice by serving only 20 pages of the writ petition to the private respondents.

By examining the record we find that the appellants had approached the writ court with the plea that they had purchased a vehicle in question and had also obtained the necessary documents for its operation but were restrained from operating it violating their right to carry on trade.

The impugned order passed by learned single Judge reveals that the grievance which was raised by the appellants has not been gone into on merit.

Learned counsel for the appellants has drawn the attention of this Court to the order dated 26.11.2019 passed in WP 21530 (W) of 2019 in the matter of *Rojina Bibi and another*

vs. The State of West Bengal and others and has submitted that the identical writ petition has been allowed but appellants have been deprived of similar relief on technical ground. The writ petition has been dismissed with heavy costs of ₹2 lakhs on the technical ground of not serving the complete set of petition to the respondents.

Learned counsel for the appellants has pointed out that the entire set of petition along with the enclosures have been served and learned counsel for the respondents, who have fairly stated before this Court that the complete set of the petition has been received by them.

Having regard to the above, we are of the opinion that grievance raised by the appellants in the writ petition now needs to be considered on merit.

In these circumstances, order of learned single Judge is set aside. The matter is remanded back to learned single Judge for its decision in accordance with law.

The appeal and connected application are accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]