

2.
13-06-2022
debajyoti
(Ct. no.06)

MAT 402 of 2020
with
IA NO:CAN/1/2020 (Old No:CAN/2810/2020)

The Kolkata Municipal Corporation
Vs.
Basu Dev Sarkar & Ors.

Mr. Alak Kumar Ghosh,
Ms. Manisha Nath

... For the Appellant.

Mr. Satyajit Talukdar,
Mr. Abhishek Sarkar

... For the KMDA.

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

This appeal is directed against an order dated February 18, 2020, whereby the learned Single Judge rejected the appellant's contention that the writ petition could not be heard as a 'Group-V' matter. The writ petition should be heard as a 'Group-I' matter or as a Public Interest Litigation.

The material facts of the case are that some of the residents of the concerned locality approached the learned Single Judge with the grievance that a pond in that locality was being filled up illegally. Infraction of provisions of the West Bengal Inland Fisheries Act, 1984 was alleged before the learned Single Judge. The appellant Corporation was added as a respondent in the writ petition and the writ petition was filed as a 'Group-V' matter.

The Corporation took out an application before the learned Single Judge contending that the Corporation had no role to play in the matter. Its name should be deleted from the cause title of the writ petition. The

matter should not be treated as a 'Group-V' matter. By the impugned order, the learned Single Judge rejected such application of the Corporation.

We have heard learned counsel for the appearing parties. In spite of notice having been served on learned advocate for the writ petitioners, nobody has appeared for the writ petitioners.

We have gone through the writ petition. Mr. Ghosh, learned advocate, appearing for the Corporation, seems to be right. The allegation is of violation or breach of certain provisions of the West Bengal Inland Fisheries Act, 1984. It is true that the Commissioner of the Kolkata Municipal Corporation is the designated Competent Authority under Section 17A of the 1984 Act. However, while acting as the Competent Authority under the 1984 Act, the Commissioner does not discharge any functions under the Kolkata Municipal Corporation Act as Commissioner of the Corporation. We are inclined to agree with the appellant's contention that the Corporation is not really concerned with the subject matter of the writ petition and/or the provisions of the West Bengal Inland Fisheries Act, 1984. At best, the Corporation may be a proforma-respondent in the writ petition. We are of the view that the writ petition should be heard as a 'Group-I' matter and not as a 'Group-V' matter.

Accordingly, let the writ petition be listed before the learned Single Judge having determination to hear 'Group-I' matters.

The impugned order is hereby set aside. The appeal and the connected application are, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)