

29.04.2022

WPST 52 of 2020

Court : 04
Item : 04
Matter : WPST
Status : DO
Transcriber: nandy

Sadhan Singh & Ors.
Vs.
State of West Bengal & Ors.

Mr. Arunabha Banerjee, Advocate
Ms. Sayani Saha, Advocate

.....for the applicants

Mr. N.G. Dostidar, Advocate

.....for the State

In course of hearing a supplementary affidavit has been filed by the applicants annexing several documents which they intend to rely at the time of hearing.

Let such supplementary affidavit be taken on record.

The tribunal application challenging an order dated November 9, 2015 purportedly issued by the Divisional Forest Officer, Medinipur Division was challenged by the writ-petitioner herein before the West Bengal Administrative Tribunal. By an order dated July 19, 2019 the Tribunal dismissed the said application being devoid of merit upholding the decision of the Divisional Forest Officer on the premise that the documents which are required to be issued by the Range Officer has, in fact, not been issued by the said authority and, therefore, the authenticity of the certificates raises doubt in this regard.

Our attention is drawn to an order dated August 13, 2015 passed by the West Bengal Administrative Tribunal in OA 1092 of 2014 where the dispute was raised for non-consideration of the representation filed by the petitioner alleging to have been continuously working for more than ten years and the Tribunal while disposing

of the said representation, directed the Divisional Forest Officer, Medinipur Division to take a decision on the representation made by the writ-petitioner annexed at page 51-58 thereof in the light of the Notification dated September 16, 2011 issued by the Finance Department. It was further indicated that while discharging such exercise, opportunity should be given to the writ-petitioner and the representation shall be disposed of by passing a reasoned order.

The impugned order passed by the Divisional Forest Officer, Medinipur Division, was a subject matter of challenge in the tribunal application. After the dismissal of the tribunal application and at the time of entertaining the instant writ-petition, direction was passed upon the respondents as well as the petitioner to produce all the relevant documents filed before the Tribunal.

Our attention is drawn to the stand of the respondent authorities taken before the Tribunal while filing an affidavit against the tribunal application. It has been categorically averred therein that though the Divisional Forest Officer fixed the date for hearing but on the said date he was compelled to go outside the headquarter due to exigencies of some urgent official works and, in fact, entrusted another attached officer to conduct the hearing.

In view of the categorical stand having taken by the respondent authorities, it is really shocking state of affairs that the person who has not heard the parties yet proceeded to pass the final order. It was a specific direction passed by the Tribunal in an earlier round of litigation that the Divisional Forest Officer, Medinipur

Division shall heard and take decision on the representation filed by the writ-petitioner and, therefore, it is inconceivable that some other officer conducted the hearing but the order is passed by the said authority.

It is apparent example of shifting the responsibility and, therefore, the impugned order cannot be said to have been passed strictly in terms of the order passed by the Tribunal in an earlier round of litigation. Solely on the said ground the impugned order is **set aside**.

The Divisional Forest Officer, Medinipur Division is directed to rehear the matter after affording an opportunity of hearing to the writ-petitioners and shall take appropriate decisions within two months from the date of communication of this order. It goes without saying that the said Divisional Forest Officer shall adhere the mandate of the Tribunal dated August 13, 2015 passed in OA 1092 of 2014 in true spirit and purport.

Liberty is granted to the applicants to produce all such documents at the time of hearing before the Divisional Forest Officer who shall taken into consideration while taking a final decision thereupon.

With these observations, the writ-petition is allowed and **WPST 52 of 2020** is accordingly **disposed of**.

Urgent Photostat Certified copy of this order, be given to the parties, if applied for, on urgent basis preferably within three days from the date of application.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

