

27.04.2022
Item No. 08
Crt.No.11
b.r

MAT 643 of 2022
With
IA No. CAN 1 of 2022

M/s. Kultali Food Marketing Pvt. Ltd.
-vs-
Shyama Self Help Group & Ors.

Mr. Kalyan Bandyopadhyay Sr. Adv.
Mr. Ram Anand Agarwala
Ms. Nibedita Pal
Mr. Ramesh Dhara
Mr. Ananda Gopal Mukherjee
Ms. Sonam Ray
..... for the appellant.

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharyya
Mr. Subhankar Das
Mr. Neil Basu
..... Petitioner/respondent.

Mr. Susovan Sengupta
Mr. Subir Pal
..... for the State.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

The matter appears under the heading
“Application (Group-VIII)”.

Mr. Kalyan Kumar Bandyopadhyay, Learned
Senior Counsel, appears in support of CAN 1 of 2022,
which is an application for appropriate order. Mr.
Bandyopadhyay also appears in support of the appeal
being MAT 643 of 2022.

In the appeal, the order of the Hon'ble Single Bench dated 19th April, 2022 in WPA No. 16220 of 2019 along with its connected application is under challenge.

The order impugned reads as follows:-

“ By consent of the parties, let the matter appear in the list on 13th May, 2022 under the heading “Hearing”.

The interim order that is subsisting in the matter is extended till 10th June, 2022 or until further orders whichever is earlier.”

It is submitted by Mr. Bandyopadhyay that under judicial scrutiny in the writ petition being WPA 16220 of 2019, is the Vacancy Notification dated 17th July, 2019 for appointment of MR Distributor under the West Bengal Public Distribution System (Maintenance and Control) Order, 2013 (for short the 2013 Control Order).

It is pointed out that the present applicant, M/s. Kultali Food Marketing Private Limited, have added themselves as a party respondent to the writ petition which has been filed by the Respondent no.1 in this application being CAN 1 of 2022 namely, Shyama Self Help Group.

Mr. Bandyopadhyay takes this Court to several orders of the Hon'ble Courts and submits that the primary grievance of the appellant is to the effect that the interim order as granted on the 26th of August, 2019 staying the Vacancy Notification has been extended from

time to time without the writ petition being ultimately heard.

Mr. Bandyopadhyay emphatically challenges the series of orders of the Hon'ble Single Benches extending the interim order from time to time and culminating in the final order of extension dated 19th April, 2022 (*supra*).

It is submitted that as a consequence of such extension of the interim order, the writ petition is prevented from being heard and, the writ petition is oscillating in the cause-list from the position of "Hearing" to "To Be Mentioned" and *vice-versa*. It is submitted that although the matter was heard to a large extent before a Hon'ble Single Bench of this Court, hearing could not be concluded and the matter went back to the position of extension of interim order.

Mr. Bandyopadhyay further emphatically points out that the exigencies of the situation have compelled the applicant to move the Hon'ble Appellate Bench.

Both Mr. Debabrata Saha Roy, Learned Counsel appearing for the writ petitioner/Respondent no.1 in this appeal and Mr. Susovan Sengupta, Learned State Counsel, submit that the business of the Hon'ble Courts holding jurisdiction did not permit the matter to be taken up for final hearing.

However, on all dates the writ petitioner was represented before the Hon'ble Courts and all documents connected to the writ petition, except the application for vacating the interim order as filed by Mr. Bandyopadhyay' client, have been incorporated in the Paper Book.

The attention of this Court is drawn by Mr. Saha Roy to the Order dated 22nd of March, 2022 which, *inter alia*, reads as follows:-

“ In terms of the order dated 25th February, 2022, the interim order was extended till 25th March, 2022.

Learned Counsel for the added respondent submitted that the Senior Counsel, Mr. Kalyan Bandyopadhyay would not be available till 10th April, 2022 and prayed for fixing the matter after 10th April, 2022.

In view of the above, interim order which is expiring on 25th March, 2022 is extended till 20th April, 2022.

Let the matter be remained in the list in the same position.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.”

Mr. Saha Roy therefore submits that in terms of such order it is not the writ petitioner alone who has delayed the proceedings as alleged by Mr.

Bandyopadhyay but, the parties not being available, compelled the Hon'ble Court to extend the interim order.

Both Mr. Bandyopadhyay and Mr. Saha Roy in support of their submissions have relied on judicial authorities.

Having heard the parties and considering the materials placed, this Court is not in a position to accept that the Order impugned dated 19th of April, 2022 fulfills the requirements to be eligible to be treated as an Order within the meaning of Clause 15 of the Letters Patent of this High Court.

In the above view of the matter this Court finds the Appeal and its connected application to be not maintainable.

However, this Court, at the same time, requests the Hon'ble Single Bench to hear out the writ petition expeditiously, preferably commencing from the date already fixed by the Order dated 19th April, 2022, i.e. the 13th of May, 2022 without granting adjournments to any of the parties.

MAT 643 of 2022 along with **CAN 1 of 2022** stand accordingly **disposed of**.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

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

(Krishna Rao, J.)

(Subrata Talukdar, J.)