

24.08.2022
Sl. No.2(SL)
srm

W.P.A. No. 7681 of 2022
Sri Sobhan Guha Majumder & Ors.
Versus
The State of West Bengal & Ors.

Ms. Baishali Ghoshal
...for the Petitioners.

Mr. Jahar Lal De,
Mr. Shamim ul Bari
...for the State-respondents.

Mr. P.K. Roy,
Mr. Ankit Sureka,
Mr. Biplob Das
...for the Respondent Nos.2 & 3.

Mr. P.C. Bhattacharjee,
Mr. Manas Ghosh
...for the Respondent No.4.

Mr. Sandip Dasgupta,
Mr. S. Siddiqui
...for the Respondent No.6.

In the cause title of the order dated August 17, 2022,
Mr. Pradip Kumar Roy, learned Advocate “for the
respondent Society” be corrected as learned Advocate “for
the Respondent Nos.2 & 3”.

Let this order be treated as a part of the original
order dated August 17, 2022.

The other part of the order is unaltered.

The department is directed to take steps accordingly.

It appears that there is a dispute between the petitioners, who are the members of the Trinayanee Co-operative Housing Society (hereinafter referred to as the society) and the society itself.

It is the contention of the petitioners that taking advantage of the pendency of a proceeding before the learned co-operative Tribunal, which is not functioning at present, certain illegal activities are being carried on by the office bearers of the society and flats are being allotted in violation of an Award.

Mr. Bhattacharjee, learned Advocate appearing on behalf of the respondent No.4, submits that after 2011 no fresh allotment was made in contravention of the award passed by the competent authority.

This Court finds that the cause of action, as pleaded in this writ petition, is a dispute under Section 102 of the West Bengal Co-operative Societies Act, 2006. Without going into the factual aspects, which have been urged by the petitioners and by the society, this Court is of the view that the issue which gave rise to the filing of the writ petition is also a dispute. The allegation of the petitioners

is that without adhering to the award and by keeping an appeal pending, the office bearers of the society is continuing with the illegal allotments of the flats. This aspect of allegedly continuing with the illegal allotments of flats allegedly in violation of the award is also a dispute between the office bearers of the society and the members of the society. Such dispute has to be decided by the competent authority. The petitioners are at liberty to file a dispute case.

The other prayer of the petitioners for appointment of the learned Chairman of the learned Tribunal, cannot be entertained by this Court at this stage as it appears that the appointment of the learned Chairman is pending before the competent authority. It is expected that expeditious steps shall be taken as the Tribunal has become non-functional.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)