

D/L
Item No. 17
24.06.2022
KOLE

MAT 816 of 2022
With
IA No. CAN 1 of 2022
Nanda Sarkar
-Vs.-
The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya, Sr. Adv.
Mr. S. Parvin

...for the appellant.

Mr. Sirsanya Bandyopadhyay,
Mr. S. Sen Gupta,

...for the State.

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

This appeal is directed against an *interim* order dated May 12, 2022.

It appears that the appellant/writ petitioner has made a representation for grant of a lease in respect of a fishery in his favour for three years. The grievance of the writ petitioner is that although a three years' lease has been granted, in effect, the period of lease has been curtailed. Apparently, a tender has been floated for execution of fresh lease in respect of the same fishery.

By the impugned order, the learned Single Judge observed that since the representation of the writ petitioner is pending and is yet to be disposed of, the fresh tender process should be stayed since otherwise the representation would become infructuous. Accordingly, the learned Single Judge stayed the fresh tender floated pertaining to the water body in question till the disposal of the representation made

by the writ petitioner in terms of an earlier *interim* order dated September 22, 2021. The learned Judge directed the matter to be listed on June 24, 2022, i.e., today. We are told that the matter is listed before the learned Single Judge today and on the prayer made on behalf of the writ petitioner, the matter stands adjourned till July 14, 2022.

The only prayer of the appellant is that the learned Single Judge before disposing of the writ petition should consider the order passed by the concerned authority on the writ petitioner's representation. We do not see how anybody can oppose such a prayer which, according to us, is innocuous. Accordingly, we dispose of the appeal and connected application by requesting the learned Single Judge to consider the decision of the concerned authority on the writ petitioner's representation before finally deciding the writ petition on merits.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted.

Needless to say, any decision of the respondents pertaining to the fresh tender process shall abide by the final result of the writ petition.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

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