

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 15465 of 2021

Manik Ankura

-vs.-

State of West Bengal & Ors.

Mr. Tanmoy Chowdhury,
Ms. Somsubhra Ganguly,
Mr. Abhishek Chakraborty,
...for the petitioner

Mr. Srijan Nayak,
Ms. Rituparna Maitra,
Mr. Kanailal Mondal
...for the State

Mr. Arjun Roy Mukherjee,
Mr. Joyjeev Medhi
...for the respondent no. 5

Despite service, none appears for the
respondent nos. 3 and 4.

It is contended by the petitioner that the
petitioner had sought compassionate appointment in
view of the permanent disability of his father and,
pursuant to an order dated November 25, 2019 passed
by a coordinate Bench of this Court in W.P. No.
16249(W) of 2014 (with C.A.N. 10673 of 2016), the
respondent nos. 3 and 4 were directed to consider the
representation dated April 5, 2010 made by the
petitioner's father during his lifetime and the

representation dated July 13, 2012 made by the petitioner himself within a period of two months from the date of receipt of a copy of the said order. A reasoned order was to be passed thereafter by the respondent nos. 3 and 4 upon hearing the petitioner and/or his legal representatives. The answer to the representation was to be communicated to the petitioner within seven days thereof.

However, thereafter, despite having informed the petitioner as regards fixation of dates for giving hearing to the petitioner for the purpose of consideration of representations, the respondent nos. 3 and 4 failed to hold any meeting, thereby failing to give effect to the order of the coordinate Bench.

Ultimately on the petitioner having given several representations, vide communication dated February 18, 2021 (Annexure P-17 at page 50 of the writ petition), it was communicated that the Board of Directors of the DSP Employees' Cooperative Society Ltd. had completed its term on 31.05.2020. As per Government Rule, it was informed, a functioning committee among the employees of the society took the charge of the society in presence of the supervising officers of A.R.C.S. to maintain its existence. The committee purportedly had already informed the matter to the A.R.C.S. Co-operation Directorate, Paschim Bardhaman Range, Asansol. Under those circumstances, it was communicated in the

said letter, the above mentioned committee did not have any power to mitigate the matter until the elected board would take the charge of the society.

Since the respondent nos. 3 and 4 have chosen not to appear consistently in the matter, the writ petition is taken for being decided *ex parte* in their absence.

It is explicitly clear from the order dated November 25, 2019 that the coordinate Bench had directed the respondent nos. 3 and 4 to consider the representations of the petitioner and his father, since deceased, on the score of compassionate appointment of the petitioner in place of his father. However, such liability has been shirked consistently, despite the board having admittedly functioned till May 31, 2020, whereas the order was passed as long back as on November 25, 2019. In the absence of any explanation for such non-compliance on behalf of the board, the liability is shifted to the existing body in charge of the society at present in place of the erstwhile board.

It has been indicated on behalf of the DSP Employees' Cooperative Society Ltd. in its letter dated February 18, 2021 that a functioning committee among the employees of the society has taken the charge of the society in presence of the supervising officers of A.R.C.S. to maintain its existence, which has to discharge all functions of the erstwhile board. Since compliance of

the direction of the coordinate Bench was one of such duties of the erstwhile board and the said board, unfortunately, failed to do so, the liability is cast on the existing functioning committee to consider the representations of the petitioner and his father, since deceased, dated April 05, 2010 and July 13, 2012 respectively pursuant to the direction of the coordinate Bench dated November 25, 2019.

Since nothing has been intimated to this Court as regards whether any regular board has been appointed in the meantime and respondent nos. 3 and 4 chose not to appear, W.P.A. No. 15465 of 2021 is disposed of by directing the present functioning committee, called by whatever name, which is in charge of the respondent nos. 3 and 4 at present and/or the functioning committee as a whole which took the charge of the society in presence of the supervising officers of the A.R.C.S., to decide on the representations dated April 05, 2010 and July 13, 2012, given respectively by late Bimal Ankura alias Bimal Chandra Ankura and the petitioner, Manik Ankura, respectively, as expeditiously as possible, preferably within four weeks after communication of this order to the said functioning committee or any of its office bearers by the respondent no. 5 in the present writ petition. Since the respondent no. 5 in the writ petition is the Managing Director of the Durgapur Steel Plant, it will be most convenient for the

said respondent, among all other parties, to communicate this order, along with a server copy of the same, to the present functioning committee and/or the persons in charge of the respondent nos. 3 and 4 within April 26, 2022 for the purpose of ensuring compliance of the same.

The parties and all concerned are to act upon the communication by the respondent no. 5 and/or the learned advocate for the petitioner, coupled with a server copy of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)