

14.9.2022
Sl.No.59
sn

WPA 16257 of 2021

**Mangal Biswas
Vs.
The State of West Bengal & Ors.**

**Mr. Timir Baran Saha
..for the petitioner
Mr. Moloy Singh
Mr. Tapas Ballav Mondal ..for the State**

As this Court is not inclined to pass any mandatory directions as prayed for by the petitioner, the writ petition is taken up in the absence of the panchayat authorities as also the private respondents.

Private respondents are some of the villagers who also run the 'hat' along with the petitioner. The petitioner alleges that the private respondents are running the 'hat' without licence, whereas, the petitioner has been running the 'hat' with a licence.

The petitioner submits that the Block Development Officer, Tehatta Block directed the petitioner, not to hold the 'hat' but the respondent nos. 13 to 47 were allowed to run the 'hat' without any licence.

The police authorities have filed a report, which is taken on record.

It appears that for the last 27 years, Kamrul Mondal and 40 famers including the petitioner were selling vegetables from plot no. 1365, Hal plot 1211. The stalls were constructed as temporary bamboo

structures. It was known as 'Sundalpur Shobji Haat'. One Swapan Singha Roy had been given patta, but the patta holder did not ever occupy the land. Swapan Singha Roy, the said patta holder allegedly sold the land to the petitioner and 38 others, for some consideration. The hat was held twice a week. The petitioner and some others started making concrete construction and were selling the stalls to other villagers. The temporary bamboo structures were broken down. Disputes arose.

Proceedings under Section 144 of the Code of Criminal Procedure were also filed. The police authorities intervened and directed the parties to maintain peace and tranquillity. Prosecution under Sections 107/116(3) of the Code of Criminal Procedure was submitted. There appears to be a proposal for annulment of patta granted in favour of Swapan Singha Roy and Mala Sinha Roy.

The petitioner denies the allegations made by the police authorities.

Whether the petitioner can claim title over the land, which had been granted by way of a patta to his vendor, is not to be gone into in this proceeding. The petitioner cannot make concrete constructions of stalls, without necessary permission from the permission granting authority.

The writ court is not in a position to ascertain the disputed questions of facts which have arisen. The police enquiry was made pursuant to a direction by the Sub Divisional Executive Magistrate in a proceeding under Section 144(2) of the Code of Criminal Procedure. There appears to be a dispute between the petitioner and the respondent nos. 11 to 47 over running the 'hat'.

Under such circumstances, this writ petition is disposed of with a direction upon the petitioner to approach the Additional District Magistrate (General), Nadia, Krishnagar, with his grievances.

The authorities shall resolve the dispute in accordance with law and on the basis of the documents available. The practice which was prevalent, shall be considered. All interested parties shall be heard.

The right, title and interest of the petitioner, shall not be gone into.

The authorities shall also decide the mode in which the 'hat' shall be run and will take necessary steps to prevent any further untoward incident over the issue.

A reasoned decision shall be taken and communicated to all. Not more than five representatives of different groups of people who run the 'hat' including the petitioner shall be allowed at

the hearing. Before the hearing is conducted, an inspection shall be held in the presence of the parties.

The parties shall be at liberty to file necessary documents in support of their respective contentions and the entire issue shall be resolved, in accordance with law.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)