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23.06.2022
jb.

W.P.A. 19946 of 2021
(Madhabi Lata Mondal vs. State of West Bengal & Ors.)

Mr. Kamalesh Bhattacharyya
Mr. S. P. Pahari
Mr. Gaurav Purkayastha
.... For the Petitioner

Mr. Soumitra Bandyopadhyay
.... For the State

Sk. Rejaul Alam
.... For the Respondent No. 7

Report in the form of affidavit submitted by the
7th respondent is taken on record.

It is contended on behalf of the petitioner that the homestead land of the petitioner including her residential house standing thereon was acquired by the State respondents vide L.A. Case No. HBA-007/97-98 and the petitioner applied before the Authority for allotment of rehabilitation plot measuring about 6 decimals for her residence.

Learned counsel for the petitioner places reliance on the Government Circular dated 20th April, 1993 which demonstrates that person losing more than 0.03 acres will be allotted a full plot measuring 0.06 acres.

Learned counsel also refers to a judgment of Hon'ble Division Bench of this Court delivered on 4th April, 2001 in F.M.A. 1552 of 2000 with CAN 1561 of 2000 wherein the Hon'ble Division Bench has observed as follows:

“If the awardees are separate, then they must have separate allotment irrespective of whether the acquired land was partitioned or not. The only manner in which the awardee can be denied allotment is by entering a bonafide finding after giving a hearing that the awardee is of the family of another awardee and thus cannot have another allotment.”

The petitioner claims allotment of rehabilitation plot measuring 6 decimals in her favour in terms of the said Circular.

The petitioner submitted a representation before the concerned Authority in this regard which is yet to be disposed of. The petitioner prays for a direction upon the Authority to consider the representation at the earliest.

It is submitted on behalf of the respondents that though the allotment order was granted in 2006 and the petitioner was communicated the same in 2009, the writ petition has been filed only in 2021 and such inordinate delay has not been explained.

Upon consideration of the submissions made on behalf of the parties and material on record, this Court is of the view that the Chairman, Rehabilitation Advisory Committee, being the 5th respondent herein be directed to consider the representation submitted by the petitioner within a stipulated time frame.

Accordingly, the writ petition is disposed of directing the 5th respondent to consider and dispose of the representation submitted by the petitioner dated 26th July, 2021 within one month from the date of communication of this order after affording reasonable opportunity of hearing to the petitioner or her authorised representative, in accordance with law. In dealing with the representation the concerned Authority should take into consideration the Circular issued by the Land and Land Reforms Department, Land Acquisition on 20th April, 1993 and the observation of this Court as recorded in the order.

Copy of this order be communicated to the concerned Authority by the petitioner at the earliest. In the event the Authority takes decision in favour of the petitioner, consequential steps be taken by the Authority within a month thereafter.

W.P.A. 19946 is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)