

**FMA 68 of 2022
with
CAN 1 of 2021**

**(Mili Bewa & Anr. Vs. The State of
West Bengal & Ors.)**

Mr. Mujibar Ali Naskar

.... For the appellants

Mr. Supriyo Chattopadhyay

Mr. Sabyasachi Mondal

.... For the State

Mr. Samim Ahammed

Mr. Arka Maiti

Ms. Ambiya Khatun

**.... For the respondent
nos. 7 & 8**

The present appeal has been preferred challenging an order dated 22nd March, 2021 passed in WPA 3659 of 2016.

Mr. Naskar, learned advocate appearing for the appellants/writ petitioners submits that without considering the arguments, as advanced on behalf of the appellants and without addressing the issues pleaded in the writ petition, the learned single Judge abruptly disposed of the writ petition itself while considering an application, being CAN 2 of 2021, filed by the private respondent nos. 7 and 8 for implementation of an earlier order dated 14th January, 2020.

Drawing our attention to the order dated 3rd November, 2014 passed by the respondent no.4, he submits that though the private respondent nos. 7 and 8 did not fulfil the condition no.4 as incorporated in the

said order, they were engaged by an order dated 1st December, 2015 upon cancelling the engagement of the appellants' 'Self Help Group', namely, *Meyrao Manush*.

Per contra, Mr. Samim Ahammed, learned advocate appearing for the private respondent nos. 7 and 8 submits that there is no pleading in the writ petition in support of the arguments as advanced before this Court. The private respondent no.7 and 8 were formed much earlier to the formation of the appellant's Self Help Group. Upon considering the records, the learned single Judge rightly disposed of the writ petition directing the respondents to implement the earlier order dated 14th January, 2020 wherein it was, *inter alia*, observed that the respondent nos. 7 and 8 being *Mahila Bikash Samity* and *Nabaday Mahila Smity* may be allotted work subject to the result of the writ petition.

Mr. Chattopadhyay, learned senior Government advocate appearing for the State submits that the order dated 1st December, 2015 was passed upon hearing the writ petitioners and at that juncture it was not argued on their behalf that there had been any violation of the conditions towards engagement of the Self Help Group.

Records reveal that the writ petition was initially heard on 10th April, 2017 and the Hon'ble Court directed that the appointments of the private respondent nos. 7 and 8 would abide by the result of the writ petition. Thereafter the private respondent nos. 7 and 8 filed an

application for appropriate order being CAN 9144 of 2019 which was disposed of by an order dated 14th January, 2020 observing that the respondent nos. 7 and 8 being *Mahila Bikash Samity* and *Nabaday Mahila Smity* may be allotted work subject to the result of the writ petition. The said private respondents again filed an application being CAN 2 of 2021 for implementation of the order dated 14th January, 2020. On 22nd March, 2021, the writ petition along with the application being CAN 2 of 2021 were disposed of directing the respondents to implement the order dated 14th January, 2020.

The issues as to whether the decision dated 1st December, 2015 is contrary to the decision dated 3rd November, 2014 and as to whether the rules towards selection of Self Help Groups can be changed after initiation of the selection process have not been considered while passing the impugned order.

In view thereof, we set aside the order dated 22nd March, 2021 and remand the writ petition to the learned Single Judge for consideration of the issues pleaded in the writ petition including the issues as discussed above.

We have been informed that affidavit-in-opposition to the writ petition has already been filed by the private respondent nos.7 and 8 but no opposition has yet been filed on behalf of the State and the writ petitioners have also not filed any reply to the affidavit-in-opposition of the respondent nos. 7 and 8.

In view thereof, the State respondents would be at liberty to file an affidavit-in-opposition within four weeks. Reply thereto, if any, be filed within two weeks thereafter. The appellants would also be at liberty to use an affidavit-in-reply to the opposition, as already been filed by the respondent nos. 7 and 8, within four weeks.

Mr. Chattopadhyay informs this Court that the private respondent nos. 7 and 8 are presently working in the concerned Madrasah.

It is made clear that such appointment of the private respondent nos. 7 and 8 shall abide by the result of the writ petition.

The appeal and the connected application are, accordingly, disposed of.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)