

15.09.2022
Court No. 19
Item no.18
CP

W.P.A. No. 20299 of 2022

Tarik Alam & ors.

Vs.

The State of West Bengal & Ors.

Mr. S.P. Lahiri

Mr. M. Alam

Mr. Habibur Rahman

.....for the petitioners.

Mr. Lalit Mohan Mahata

Mr. P. B. Mahata

....for the State.

Affidavit of service is taken on record.

The petitioners claim implementation of a deed of gift allegedly entered into between the petitioners and the State Government. It is the contention of the petitioners that the lands of the petitioners were gifted to the government for utilization under the 'Piped Water Supply Schemes (PWSS)' (hereinafter referred to as 'the said scheme'). The pradhan of Goagaon – I Gram Panchayat had recommended that the lands of the petitioners be used for the purpose. The petitioners allege that after the deed of gift was executed and registered, other lands have been taken by the authorities. Such decision of the authorities were taken, allegedly on the subsequent recommendation by the concerned pradhan. The

lands of the respondent nos. 11 and 12, were preferred.

The petitioners submit that if the lands of other persons were preferred to the lands of the petitioners, in that event the petitioners should have been intimated and the lands of the petitioners should have been released by the government, or utilized for similar projects.

Learned advocate for the State respondents on instruction from the Executive Engineer, Raiganj Division, Public Health Engineering Directorate under whom the said scheme is to be implemented, submits that the pradhan had issued a recommendation for change of the donor by preferring the lands of the respondent nos. 11 and 12. Necessary directions were given by the authorities in this regard, after several meetings.

Learned advocate for the State respondents submits that the petitioners do not have any right to compel the authorities to take their lands for implementation of the said scheme. If the authorities found other lands to be more suitable, then they had the right to take such lands.

The reasons as to why the petitioners' lands were not found to be suitable are not before the court. It appears that the petitioners were not informed about the change in the decision of the

authorities. The petitioners had gifted their lands voluntarily to the government. However, if the lands of the petitioners are not utilized for the said scheme, the petitioners have a right to seek cancellation of the said deed of gift, or revocation thereof. The government cannot withhold the land of the petitioners without utilizing them for the purpose for which the same was taken. At the same time, the petitioners also cannot compel the government to take the lands, if the government found the same to be inappropriate. There are several disputed questions which cannot be decided in this proceeding. It may be that the lands of the petitioners would be utilized in another scheme or project.

The writ petition is disposed of with a liberty to the petitioners to approach the Additional District Magistrate(Development), Uttar Dinajpur, with their grievances. All points which have been raised in the writ petition, shall be decided by the authority upon hearing the petitioners, the pradhan of Goagaon – I Gram Panchayat, Executive Engineer, Raiganj Division, Public Health Engineering Directorate and all other interested parties, including those persons whose lands have been allegedly preferred.

The authority shall also pass a reasoned order indicating the reasons as to why the petitioners have

not been intimated about the change in the proposal and what steps shall be taken to release the lands in favour of the petitioners, if the same are not utilized for the purpose for which the same had been taken.

The petitioners may also pray for reconsideration of their proposal. However, the writ court cannot direct the manner in which the authorities should implement the public policy or the public project.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of eight weeks from the date of receipt of the petitioners' representation.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)