

D/L
Item No. 8
15.12.2022
KOLE

**MAT 1568 of 2022
With
IA CAN 1 of 2022**

**Sri Ajit Ghosh
-Vs.-
The State of West Bengal & Ors.**

*Mr. B. Sahoo,
Mr. Uttam Kr. Bhattacharyya,
Mr. K. Maitra*

...for the appellant.

Mr. Lalit M. Mahato,

...for the State.

Mr. Jamuna Saha,

...for the respondent no. 9.

By consent of the parties the appeal and the application are taken up for hearing together.

A judgment and order dated August 17, 2022, whereby the appellant's writ petition was disposed of by the learned Single Judge by giving certain directions, is under challenge in this appeal.

The appellant was engaged by the Barkola Gram Panchayat on December 21, 2020, as Tax Collector. However, his engagement was held to be irregular by the concerned Block Development Officer who was the respondent no. 6 in the writ petition. On the basis thereof, the engagement of the appellant was terminated. This was challenged by the appellant before the learned Single Judge. The learned Judge disposed of the writ petition by giving the following directions:-

“Accordingly, the writ petition is disposed of by giving liberty to the petitioner to file a comprehensive representation before the respondent no. 6 highlighting his grievances. In the event, such a representation is made within August 23, 2022, the same shall be considered by the respondent no. 6 strictly in accordance with the prescribed rules after giving reasonable opportunity of hearing to all the necessary parties including the petitioner and thereafter take a decision as to whether the engagement process may be approved or not.

The Executive Officer shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

Till a decision is taken in the matter by the Executive officer, the impugned communication dated October 27, 2021 shall be kept in abeyance.”

The writ petitioner was not happy with the order and is, therefore, before us by way of this appeal. Mr. Sahoo, learned Advocate appearing for the appellant, says that the respondent no. 6, who is the Block Development Officer, is not the authority who can take any decision in the matter. In any event, it was the respondent no. 6, who found the engagement of the appellant to be irregular and hence sending back the appellant to him would be a futile exercise. Some other competent officer in the administration should consider the appellant's grievance.

We have also heard Mr. Mahata, learned Advocate for the State.

We find some substance in the submission of Mr. Sahoo. Accordingly, we modify the order under appeal to the extent that the appellant shall make his representation to the District Magistrate, Paschim Medinipur, being the respondent no. 3 herein, within a week from date. If such representation is made, the respondent no. 3 shall take a reasoned decision thereon in accordance with law and the applicable rules and regulations, within a period of three weeks from the date of receipt of the representation after giving an opportunity of hearing to the appellant or his authorized representative as well as to the Pradhan of the concerned Gram Panchayat. Till such decision is taken, the communication dated October 27, 2021, issued by the BDO and the letter dated November 8, 2021, issued by the Pradhan of the concerned Panchayat shall remain in abeyance. At the hearing before the respondent no. 3, the parties will be at liberty to rely on such legal material as they may be advised.

With the aforesaid modification, the appeal and the connected application are disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)