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WPO/673/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

JAGRAN PERAKASHAN LIMITED
VERSUS
THE STATE OF WEST BENGAL & ANR.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 29th March, 2022

Appearance:

Mr. Sarvapriya Mukherjee, Adv.

Mr. Ashish Verma, Adv.

Mr. Arnab Sardar, Adv.

Mr. Arnav Sanyal, Adv.

Mr. Sirsanya Bandopadhyay, Adv.

Mr. Arka Kumar Nag, Adv.

The Court :- The writ petitioner is aggrieved by rejection of its bill for a sum of Rs. 1,12,00,000/- by the Tourism Department, Government of West Bengal. By communication dated 6th May, 2019, the petitioner was informed that its bill was admitted for a sum of Rs. 12,00,910/-.

Counsel for the petitioner, Mr. Mukherjee would argue that against a claim statement of about 12 odd pages, a few lines in rejection without reasons have been provided. This indicates non-application of mind. Counsel for the petitioner would argue that since no monetary claim has been made and only reasons are being requested, the Writ Court should issue mandamus on the respondents for the said purpose. The submission of the Counsel for the petitioner is opposed by

Mr. Bandopadhyay, Counsel for the State of West Bengal. It is submitted that the petitioner's claim is barred by limitation. Any direction from this Court to disclose reasons would revive limitation which has otherwise expired. It is also argued that commercial claims of this nature cannot be entertained under Article 226 of the Constitution of India. None of the exceptions as laid down in the decision of Whirlpool Corpn. vs. Registrar of Trademarks reported in (1998) 8 SCC 1 based on which the writ petition can be entertained is satisfied.

Mr. Mukherjee, Counsel for the petitioner would argue that the decision of the Supreme Court in the case of Joshi Technologies International Inc. vs. Union of India & Ors. reported in (2015) 7 SCC 728 cannot be applied in the facts of the instant case. It is also argued that the petitioner's claim is not barred by limitation and reliance in this regard is placed on the decision of the Supreme Court in the case of **Shakti Bhog Food Industries Limited vs. Central Bank of India** and another reported in **2020 SCC Online SC 482**.

At first glance, it indeed appears to this Court that no monetary reliefs are being sought. In fact, no such reliefs are sought. However, this Court notes that the disclosure of reasons by the respondents would interfere with their right of defence against the claims made by the writ petitioner in any civil proceedings. A Writ Court is also not a forum for fishing evidence.

Considering the fact that the parties were in commercial relations earlier and the claims having been rejected, this Court is of the view that interference under Article 226 of the Constitution of India would seriously prejudice any commercial defence which the State itself may have against the petitioner.

While holding as such, this Court is conscious of the fact that the State authority is required to act fairly. As to whether any relief can be granted to the petitioner to compel the State in the instant case to disclose documents and defences that would otherwise not be available in the civil proceedings, would equally be unfair and improper to the State.

In that view of the matter, the writ petition is disposed of without any orders reserving liberty to the petitioner to pursue appropriate civil remedies in accordance with law. It is made absolutely clear that this Court has not in any way entered into the merits of the claim of the petitioner against the Tourism Department, Government of West Bengal.

Since the respondents have not been called to file affidavits, none of the allegations contained in the writ petition shall be deemed to have been admitted by the respondents.

WPO No. 673 of 2022 is, accordingly, disposed of.

(RAJASEKHAR MANTHA, J.)