OD-3

ORDER SHEET

WPO/809/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SMT. TAPATI BANERJEE
VERSUS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 9th February, 2022.

[Via Video Conference]

Appearance:
Mr. Jaydip Kar, Sr. Adv.
Mr. Kallol Basu, Adv.
Ms. Koyeli Bhattacharya, Adv.
Mr. Debashis Sarkar, Adv.
Mr. Samik Sarkar, Adv.
For the petitioner.

Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
For the K.M.C.

The Court :- Affidavit-of-service filed in Court be taken on record.

The petitioner has alleged inaction on the part of the Assessor Collector (South) in disposing of the representation of the petitioner, which is at page 32 to the writ petition and a part of Annexure-P4. It is the contention of the petitioner that the letter of intimation issued on December 13, 2021 demanding a sum of Rs. 5,18,18,756/- including interest and penalty should be adjusted with the amount lying in the suspense account of the Corporation. It is further submitted that the letter of intimation clearly provides an opportunity to the petitioner either to send a letter by post to the Assessor Collector (South) or appear physically with documents in support of the petitioner's contention that the contents of the letter of intimation were not correct. According to Mr. Jaydip Kar, learned Senior Advocate, the letter of the petitioner which appears at page 32 of the writ petition and which was sent by registered post was issued in terms of the opportunity granted in the letter of intimation.

Mr. Biswajit Mukherjee, learned Advocate appearing on behalf of the Corporation, submits that the letter has just been sent and the authority did not get adequate time to deal with the same. Mr. Mukherjee further submits that as the payments have been made intermittently, the interest had gone up and the calculation of the amount payable in the letter of intimation was based on interest and penalty payable by the petitioner.

Having considered the records, it appears that huge amount i.e. over 1 (one) crore is lying in the suspense account with the Kolkata Municipal Corporation. In the letter of intimation, the petitioner has also been given an opportunity by the Municipal Commissioner, Kolkata Municipal Corporation, to approach the Assessor Collector with documents. According to the petitioner, the order of Kolkata Municipal Corporation as contained in the letter of intimation was not correct. The petitioner has written several letters dated December 14, 2021, January

7, 2022 to the Assessor Collector (South). Lastly the one, which appears at page 32 of the writ petition was written.

Accordingly, this Court is of the view that as the Corporation has stated that the petitioner may write to the Assessor Collector or appear before the authority with documents in support of her contention, the writ petition should be disposed of with a direction upon the Assessor Collector (South) to dispose of the representation of the petitioner which is at page 32 of the writ petition, in accordance with law, upon affording an opportunity of hearing to the petitioner. The petitioner shall be allowed to produce all documents in support of her contentions and the prayer of the petitioner for adjustment of the amount lying in the suspense account must be considered. A reasoned order shall be passed and communicated to the petitioner.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

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

(SHAMPA SARKAR, J)

snn.