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**16.05.
2023**

Ct. No. 04

Ab

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.**

WPLRT 1 of 2023

Tulshidas Parua

Vs.

The State of West Bengal and others.

Mr. Manish Kumar Das.

... for the petitioner.

The affidavit of service filed in Court today is kept with the record. Despite service, there is no representation on behalf of the respondents.

After hearing the Counsel appearing for the petitioner and upon perusal of the impugned order, we find that the presence of the respondents is necessary.

Mr. Supratim Dhar, learned Advocate, who usually appear on behalf of the State of West Bengal and present in Court today, is requested to appear in the instant writ petition as State respondents.

The Legal Remembrancer is directed to regularize the appointment of Mr. Dhar in the instant writ petition.

The copy of the writ petition is served upon Mr. Dhar in Court today.

After perusing the statements made in the said application and the impugned order, Mr. Dhar submits that the instant writ petition may be taken up for final disposal.

By the impugned order dated 17th March 2022 the tribunal application was dismissed solely on the ground that the demand notice given through the learned Advocate of the petitioner is infirm and/or defective for want of Vakalatnama to be annexed thereto.

The Tribunal was approached for a direction upon

the competent authority to dispose of the said representation/demand notice issued through the learned Advocate of the petitioner, whereas the Tribunal appears to have usurped jurisdiction of the Authority in dismissing the Tribunal application with categorical finding that such demand notice/representation is defective and cannot be entertained at all.

The jurisdiction and the powers enjoined by the Tribunal does not remotely suggest that it will usurp the power of the original authority and decide the original dispute, which is yet to be decided by the competent authority. The competent authority has neither taken up the said demand notice/representation nor took any steps thereupon and, therefore, it is inconceivable that the Tribunal will conceive something, which the competent authority has not disclosed as yet.

The law does not recognize that the demand notice/representation can only be given by the parties nor there is any embargo created in the statutory provisions in this regard. The moment the representation is on record, it is an ardent duty of the authority to consider the said representation and bring to its logical conclusion upon affording an opportunity of hearing to the parties.

The moment the Tribunal is approached alleging inaction on the part of the original authority, in not disposing of the demand notice/representation, we do not find any justification in the stand of the Tribunal in rejecting the tribunal application on such ground.

Accordingly, the order impugned is, thus, set aside.

The Block Land and Land Reforms Officer, Nandigram-III, is directed to consider and dispose of the demand notice/representation appearing at page 40 to 43 of the instant writ petition within eight weeks from the date of communication of this order after giving

opportunity of hearing to the petitioner, if required or to all interested persons in accordance with law.

It goes without saying that the said decision shall be communicated to the petitioner within one week therefrom.

With these directions, the writ petition is disposed of.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)