

25.01.2023

Sl no. 34

Ct no. 2

P.M.

WPA 603 OF 2023

Kishalay Hazra & Ors.

- Vs -

The State of West Bengal & Ors.

Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee
... For the Petitioners.

Mr. Pradip Kumar Ray,
Mr. Prabir Kumar Ray,
Mr. Joydeep Roy
... for the State.

Mr. S. K. Haldar,
Mr. A. K. Sarkar
... for respondent No. 4

Heard learned advocate appearing for the parties.

Petitioners have filed this writ petition making prayer for direction upon their employer which is a cooperative society to make payment of arrear salaries and other service benefits.

I have perused the impugned order dated 4th November, 2022 passed by the respondent District Magistrate, Nadia, in compliance of the earlier direction of this Court in WPA No. 17528 of 2022. What appears from the submission of the parties and relevant record that petitioners are the employees of the cooperative society in question which is not a 'State' within the meaning of Article 12 of the Constitution of India. Since neither it is financed by

the State Government nor Government controls day to day affairs of the society in any manner and this case involves dispute relating to claim of arrear salary made by the petitioner against a private cooperative society which is not a 'State' within the meaning of Article 12 of the Constitution of India and in addition the said cooperative society is not a party in this writ petition. Concluding the portion of the impugned order dated 4th November, 2022 which is relevant is quoted as hereunder :

"In the present case, after scrutinizing documents and hearing all concerned it is crystal clear that Government do not have any share capital in the society and that the fund for running Co-operative societies had to be raised by the members themselves through the business operations.

The present financial condition of the Kishan Co-operative Milk Producer's Union Limited do not permit disbursement of salary at previous rate. Moreover all other employees except the petitioners agreed to the dire financial condition of the Society and are accepting salary at the revised mutually accepted rate.

Therefore the Kishan Co-operative Milk Producer's Union Limited is not a State. The

representation of the petitioners regarding disbursement of salaries, arrear and other benefits attached to their services cannot also be considered.

The petition is therefore dismissed and disposed off.”

Considering the facts and circumstances as appears from record and submission of the parties and reasons given by the authority concerned in the impugned order I am not inclined to entertain this writ petition being WPA 603 of 2023 and accordingly the same is dismissed.

However, dismissal of this writ petition will not be a bar for the petitioners to avail any other remedy if available under the law before any other forum.

(Md. Nizamuddin, J.)