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Ct. No. 04

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WPLRT 5 of 2023

**Dulal Chandra Manna & Anr.
Vs.
The State of West Bengal & Ors.**

**Mr. Binoy Kumar Das.
... for the petitioner.
Mr. Supratim Dhar.
... for the State.**

This Bench since advent of determination having assigned by the Hon'ble Chief Justice is grappling with the menace of writ petitions pouring in the docket assailing the order not on merit but on the score that in the garb of seeking status report from the Government the matter is fixed under the heading 'Motion' after a gap of one year.

Article 323B of the Constitution of India bestowed power upon the Government to make appropriate legislation for adjudication or trial by the Tribunals on any disputes, complaints or offences with respect to all or any other matters specified in Clause (2) with respect to which the legislature has power to make laws. Clause (2)(d) of the Constitution confers power upon the Government to establish Tribunal for adjudication of any disputes relating to land reforms by way of an acquisition by the State or any right therein or the extinguishment or modification of any such right or by way of ceiling of agricultural land or any other way.

In exercise of such power conferred under Article 323B of the Constitution of India and for adjudication and trial of the disputes, claims and objections relating to or arising out of land reforms and tenancy in land in other matters, West Bengal Land Reforms and Tenancy Tribunal Act, 1997 was promulgated. The said Act sought to achieve twin objects; firstly it is

intended to ease out the congestion in the docket of the High Court and to avoid docket explosion; secondly to achieve speedy and effective trial or adjudication of the disputes in relation to the specified Act defined in Section 2(r) thereof.

The object and purpose behind the incorporation of the said Act establishing a Tribunal would be totally frustrated, if the matters are dealt in a regular routine manner and shelter is taken under the congestion of case diary, which is normally maintained in the Civil Courts at the District level. The said Tribunal has its own Rules regulating the procedures and, therefore, a person, who is entrusted to discharge the duties, has to change the mindset and it is expected to uphold the object and purpose of establishing the Tribunal.

The matter, which is filed and listed on a particular day obviously for its admission, is posted after a gap of one year for admission on the ipsi dixit of the submissions made by the respondent authorities.

We are unable to comprehend the procedure adopted by the Tribunal in seeking a status report concerning the disputes from the respondents which is neither verified nor the contents thereof are affirmed on oath, as we have experienced in the past that the decision is taken treating those contents as sacrosanct without affording an opportunity to the applicant to disclose his stand thereupon.

The importance of pleading verified on oath has been done away with and an innovative procedure has been adopted unknown in legal parlance and the entire decision is based upon such report, which, in our opinion, is impermissible. Even sometime we noticed that the copy of the report is not given to the Counsel for the applicant and remained on record

obviously for perusal of the Members of the Tribunal, so that it would be convenient for the Members to arrive at the decision based upon such contents.

It is absolutely a farcical approach adopted by the Tribunal, which cannot be countenanced on the legal parameters nor a responsible institution would succumb to such procedure. In arguendo, one can imagine that if such status report is sought to minimise the life span of the litigation, we can visualize the same, but it does not appear to be so, as the dates are fixed after a gap of a year or so. The Court and the Tribunal are acted on its procedural law enacted by the Parliament or Assembly and, therefore, cannot bypass or ignore the procedural provisions and adopt a procedure, which is neither recognized nor contained in the statute.

If the respondents are invited to disclose their stand in the form of a report, we do not find any impediment on the part of the Tribunal to direct the respondents to disclose the same by way of an affidavit, so that the applicant would get an ample opportunity to deal with those statements while filing the counter-affidavit. Keeping a litigant in dark without affording an opportunity to make his stand, on unknown facts disclosed by way of a report, is impermissible in law, as it compromises the fundamental principles of natural justice.

Suffice to say that the Tribunal ought to have fixed the matter at the short interval, which should not exceed beyond the reasonable limit and should not encourage the explosion in the docket of the Tribunal (which, in fact, is becoming reality).

We, therefore, permit the applicant to pray for preponement of the date before the Tribunal and if such approach is made, the Tribunal shall fix the

matter, which shall not exceed beyond fifteen days from the date of such approach and endeavour shall be shown to dispose of the tribunal application as expeditiously as possible without granting unnecessary adjournment to either of the parties unless necessitated by unforeseen and unavoidable circumstances.

With the above observations, the writ petition is disposed of.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)