

14.09.2023

Ct. no.654

Sl. No.2

sn

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

WPA 1200 of 2023

Sri Angshuman Sarkar

Vs.

State of West Bengal & Ors.

Mr. Dyutiman Banerjee

..for the petitioner

Mr. Soumitra Bandyopadhyay

Mr. Aniruddha Sen

..for the State

Mr. Shibasis Chatterjee

..for the respondent nos.10&11

This is an application under Article 226 of the Constitution of India praying for considering of the representation of the petitioner dated 26th November, 2022.

The fact in a nutshell is that the petitioner is a co-owner in respect of a plot comprised within Dag no.142, J.L. no. 112, within Mouza Narasinghapur, Block Sagardighi, District Murshidabad, which is classified as 'pond'. It is further contention of the petitioner that the private respondents have started filling up of the water body without obtaining any permission from the concerned authorities. Previously, by notification dated 16th June, 1994, the Block Development Officer was entrusted to perform the duties of competent authority under Section 17A of the West Bengal Inland Fisheries

Act, 1984. The petitioner made a representation before the Block Development Officer on 17th January, 2022. Since the said representation was not disposed, the petitioner filed writ petition being WPA 2404 of 2022. The aforesaid writ petition was disposed of on 19th April, 2022 with a direction upon the Block Development Officer, namely, the 5th respondent, to consider and dispose of the representation dated 17th January, 2022 within a period of one month from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the petitioner and the private respondents in accordance with law. By dint of notification dated 20th July, 2017, the District Magistrate of the concerned district is the competent authority under Sub-clause(ii) of Section 2 of the West Bengal Inland Fisheries Act, 1984. The petitioner again on 26th November, 2022 made a representation before the District Magistrate, Murshidabad, alleging of such activities of filling up water body and requested for restoration of the water body in question. Since such representation was not disposed of, hence the present writ petition.

Mr. Dyutiman Banerjee, learned advocate for the petitioner submits that by dint of notification dated 20th July, 2017, the District Magistrate is the competent authority to dispose of the representation made by the

petitioner on 26th November, 2022. He submits for passing necessary directions for disposal of such representation.

Mr. Shibasis Chatterjee, learned advocate for the respondent nos. 10 & 11 submits that they should be given an opportunity to place their case before the concerned authorities at the time of hearing.

Mr. Aniruddha Sen, learned advocate for the State respondents submits that direction may be issued for consideration and disposal of the representation made by the petitioner on 26th November, 2022.

From the materials on record, it is found that the petitioner has made a representation before the competent authority, namely, the respondent no.2, for restoration of the water body in question. Admittedly, such representation has not yet been disposed of by the competent authority.

In view of the above facts, the respondent no.2, the District Magistrate, Murshidabad is directed to consider and dispose of the representation made by the petitioner dated 26th November, 2022 within a period of one month from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the petitioner and the private respondents in accordance with law.

The learned advocate on record for the petitioner is directed to communicate this order along with a copy of the representation of the petitioner to the respondent no.2, the District Magistrate, Murshidabad.

The decision taken by the authorities shall be communicated to the parties within a week thereof.

It is made clear that this Court has not gone into the merits of the case and the parties shall be at liberty to place their respective contentions before the competent authority at the time of hearing.

With the above directions, this writ petition being **WPA 1200 of 2023** stands disposed of.

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

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)