

D/L. 6.
August 1, 2023.
MNS.

WPA No. 1787 of 2023

Balaram Mondal and others
Vs.
The State Chief Information Commissioner
and others

Mr. Partha Sarathi Bhattacharya,
Mr. Saikat Chatterjee,
Mr. Puranjan Pal

... for the petitioners.

Mr. Raja Saha,
Mrs. Arpita Saha,
Mr. Sanjoy Mukherjee

...for the respondent nos. 2 and 3.

Ms. Joyee Maiti

...for the respondent nos. 4 to 6.

Learned counsel for the petitioners submits that the petitioners made an application asking for certain information from the State Public Information Officer (SPIO) under the Right to Information Act, 2005. The same having been refused, a First Appeal was preferred, followed by a Second Appeal.

However, the petitioners could not get any satisfactory reply and the information sought by the petitioners was refused on certain cryptic grounds, primarily on the premise that the

questions were of suggestive nature. The matter went up to a co-ordinate Bench of this Court, which directed a rehearing of the application of the petitioners by the SPIO, which was again followed by a refusal. The petitioners, being thus constrained, had to move the First Appellate authority again, and thereafter, the Second Appellate Authority.

Learned counsel for the petitioners submits that the refusal by the SPIO was palpably *de hors* the law and it was the bounden duty of the authorities to provide the information as sought for by the petitioners.

Heard learned counsel for the parties.

The queries made by the petitioners are as follows:

- a) *Under what provisions of law my client cannot sell the land to any outsiders?*
- b) *What is the statutory provisions which do not confer an absolute right upon my clients to sell the land upon changing of nature and character and which acts as an impediment from not changing the character or use of land under the provisions of Section 4C of West Bengal Land Reforms Act, 1955?*
- c) *Kindly note as to why the said land cannot be sold to others although the recording of the nature of the land was specified in connection with proceeding under Section 14T(3) of the West Bengal Land Reforms Act, 2005?*
- d) *Whatever was recorded in the schedule in connection with proceeding initiated under Section 14T(3) of the West Bengal Land Reforms Act, 1955, kindly*

indicate as to why the said land cannot be sold to others?

It transpires from the first two questions made in the above set of queries that those are directly on provisions of law.

In both the said queries, the petitioners have asked for the relevant statutory provisions on which the authorities rely, which the authorities are not bound to furnish within the scope of the Right to Information Act.

Query (c) is, as rightly pointed out by the SPIO, of a suggestive nature, since the petitioners ask why the said land cannot be sold to others “although the recording of the nature of the land was specified in connection with proceeding under Section 14T(3) of the West Bengal Land Reforms Act, 2005”?

Query (d) is connected with query (c) and asks, “whatever was recorded in the schedule in connection with proceeding initiated under Section 14T(3) of the West Bengal Land Reforms Act, 1955”, kindly indicate as to why the said land cannot be sold to others.

The said suggestions, which are argumentative in nature as well, are not required to be answered by way of information within the

contemplation of the Right to Information Act, 2005.

However, if the petitioners are aggrieved by the parent action/inaction of the respondent authorities, which prompted the petitioners to make such queries, the petitioners are at liberty to challenge such action/inaction by an appropriately framed legal proceeding, instead of beating about the bush.

Upon the query of court, learned counsel for the petitioners hands over a copy of the notice under Section 4B(2) of the West Bengal Land Reforms Act, 1955 dated November 13, 2019, whereby the Sub-Divisional Land & Land Reforms Officer, Suri (Sadar) communicated to the petitioners, *inter alia*, that the petitioners had allegedly attempted to convert the said lands from Rice and Oil Mill to dwelling house/housing complex etc. for promoting purpose and that the said Rice and Oil Mill was not functioning for the last few years.

Since the petitioners controvert such stand taken by the Sub-Divisional Land & Land Reforms Officer, it is always open to the petitioners to challenge such communication, which was the real genesis of the petitioner's woes.

It further transpires that the said communication between the authority and the petitioners arose from a notice purportedly under Section 6(3) of the West Bengal Estate Acquisition Act, 1953 vide Memo No.6(3) Case/1558/SDL&LRO(S) /19 dated November 21, 2019, which may also be challenged in an appropriately framed legal action.

Accordingly, WPA No. 1787 of 2023 is disposed of without interfering with the order impugned herein, but granting liberty to the petitioners to take out a properly constituted challenge before the appropriate legal forum and/or this Court, against the concerned notice dated November 21, 2019 as well as the communication dated November 13, 2019, which are the root geneses of the disputes raised by the petitioners.

It is made clear that the petitioners shall also be at liberty to challenge any other related, consequential or ancillary acts or perceived inaction on the part of the authorities in the petitioners' challenge.

The merits of the contentions of the petitioners and/or the respondent authorities on the proposed challenge have not been gone into

by this Court and it will be open to the appropriate forum / court, if approached, to decide on such issue independently and in accordance with law.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)