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jdt.

13.03.2023
jb.

W.P.A. 2256 of 2023
(Kanai Singh @ Kanai Lal Singh vs. State of West Bengal & Ors.)

Sk. Sahjahan Ali
.... For the Petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State

Affidavit of service filed on behalf of the petitioner is taken on record.

None appears for the 9th respondent despite service.

The petitioner is a member of the Scheduled Tribe community and seeks to sell out his land since he is unable to cultivate the same due to his old age and several ailments. The petitioner sought permission of the District Welfare Officer, Backward Classes Welfare for such sale in favour of a person not belonging to the Scheduled Tribe. Notice of hearing was issued to the petitioner by the District Welfare Officer on 21st October, 2022. But the order impugned rejecting the prayer of the petitioner was passed by the District Magistrate and Collector, Purba Medinipur on 4th November, 2022. The said order is assailed in the writ petition on the ground that though notice was issued by the District Welfare Officer, the order was passed by a different authority being the District Magistrate and

Collector. The petitioner was asked to produce documents relating to the land in connection with which the application for transfer was made but the order indicates that he was asked to submit documents regarding his medical treatment.

Strangely, though notice of hearing was issued by the District Welfare Officer, the order impugned was passed by the District Magistrate and Collector, which is not enjoined in law. The District Welfare Officer ought to have taken up the application of the petitioner for consideration pursuant to issuance of the notice. Documents which were not called for in the said notice were also referred to in the order impugned.

In view of the above, this Court is inclined to hold that the order impugned is required to be set aside and the concerned authority being the District Welfare Officer, (the 3rd respondent herein) be directed to consider the application filed by the petitioner, in accordance with law.

The order impugned passed on 4th November, 2022 is set aside.

Accordingly, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the application submitted by the petitioner upon affording reasonable opportunity of hearing to the petitioner and considering the relevant documents produced by the petitioner, within one month from the

date of communication of this order, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)