

3rd July,
2023
(AK)
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W.P.A 3540 of 2023

Bara-Baidyapur Water User Association and another
Vs.
The State of West Bengal and others

Mr. Pratip Kumar Chatterjee
Mr. Chittapriya Ghosh
...for the petitioners.

Mr. Jahar Datta
Mr. Prabir Ray
... for the State.

Mr. Sabyasachi Mukhopadhyay
Ms. Koushikee Banerjee
...for the objectors.

Learned counsel for the petitioner contends that the Block Development Officer (BDO) concerned, by the impugned order dated February 2, 2023, acted *de hors* his authority as well as law in observing that all the objectors to the work undertaken by the petitioner-Society would have to be inducted as Executive Committee Members and office bearers of the society.

It is submitted that, in the said order, written in Bengali vernacular, it has also been stated that if any party does not cooperate with the said endeavour of the BDO, the entire project of the society would be stopped.

It is seen from the materials-on-record that the petitioner-Society is a duly registered society under the West Bengal Societies Registration Act, 1961.

The same is constituted of cultivators of the area.

Insofar as the impugned order is concerned, the same is palpably *de hors* the authority of the BDO.

At this juncture, it is submitted by Mr. Mukhopadhyay, learned counsel having instruction to appear, along with his learned advocate-on-record, on behalf of the objectors who were directed to be impleaded as Executive Committee Members by the impugned order, that the said members are necessary parties to the present writ petition.

It is submitted that, subsequently, the said objectors have been inducted as Executive Committee Members of the petitioner-Society and, thus, are necessary parties to the writ petition.

However, even if the clients of Mr. Mukhopadhyay plead that they are duly elected Executive Committee Members of the Society, they cannot be aggrieved by the outcome of the present writ petition.

The purview of challenge of the present writ petition is the direction by the BDO to incorporate outsiders as Executive Committee Members upon reconstitution of the Executive Committee as well as the office bearers.

The said prerogative lies entirely with the society, in terms of the Memorandum and Articles of the Association of the said society.

Moreover, the BDO has no authority or jurisdiction in law to give any such direction, and, in default of compliance of the same, to stop a project which is legally being undertaken by the registered society.

Hence, whoever may be affected by the outcome of the present writ petition, duly elected Executive Committee Members cannot fall within the purview of affected parties.

However, insofar as the impugned exercise of authority is concerned, the same is palpably unlawful and has to be struck down.

Accordingly, WPA 3540 of 2023 is allowed, thereby setting aside the decision taken by the BDO concerned, that is, respondent no.8 herein, on February 2, 2023 (Annexure-P4 at page-22 of the present writ petition). Any consequential action taken pursuant to the said decision is accordingly set aside as well.

However, it is made clear that no person who is not a party to the writ petition shall be precluded from claiming any rights, if accrued in their favour otherwise in accordance with law.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)