

01.08.2023
Item No.13
gd/ssd

WPA(P)/102/2023
MD AZIZUR RAHAMAN AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Kamalesh Bhattacharya,
Md. Yusuf Ali
..for the Petitioners.

Mr. Rudranil De
..for the State.

1. By this public interest litigation the petitioners are aggrieved by a decision taken by the 12th respondent which is a Society registered under the provisions of West Bengal Societies Registration Act on the file of the Joint Registrar & DPLO, Malda.

2. The 12th respondent has been running a medical facility in the said area and, according to the petitioners, it is the only facility which is available in the vicinity for public to be treated for their ailments.

3. The allegation is that the 12th respondent has taken a decision to close down the facility and use the building for some other purpose. In this regard, a representation has been given to the District Magistrate.

4. It is not in dispute that the 12th respondent is a private organization who has purchased the land and established the medical facility. Therefore, neither the court nor the authorities can compel the 12th

respondent to continue to have the facility in place as it will be well open to the organization to take a decision in accordance with their bylaws, if it is not feasible under the facility.

5. Nevertheless, this court will take note of the submission made by the learned advocate for the petitioners that in the near vicinity there is no government hospital or private health centre providing health care facility for the public and, therefore, the State should intervene and prevail upon the 12th respondent not to disband the medical facility which have been established by them. At best, the attempt of the 3rd respondent, namely, the District Magistrate, Malda can only be recommendatory and the 12th respondent cannot be compelled to keep the facility in operation.

6. In any event, since a representation is pending before the District Magistrate, we direct the District Magistrate to consider the representation submitted by the petitioners on 13th September, 2022 and pass appropriate orders on merits and in accordance with law.

7. In order to facilitate the compliance of this direction, the petitioners are directed to forward a copy of the representation along with the copy of this order and submit the same in the office of the District Magistrate, Malda.

8. The direction be complied with as expeditiously as possible.

9. With the above observations, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)