

16.05.2024
Ct. 654
D/L 178
ab

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

**WPA 5374 of 2010
With
CAN 6 of 2023**

**Satish Kumar Goyal
-Vs-
The West Bengal Housing Board & Ors.**

Mr. Ram Anand Agarwala,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee,
Ms. Sonam Ray,
Ms. Nasrin Khatoon

... for the petitioner

Mr. Aniruddha Mitra,
Mr. Ayan Chakraborty,
Mr. Dhilon Sengupta,
Ms. Sohini Mukherjee
... for the applicant/West Bengal Housing Board

Re: CAN 6 of 2023

This is application for modification of the judgment and order dated 14th June, 2023.

Mr. Aniruddha Mitra, learned advocate for the applicant submits that by order dated 14th June, 2023, the Chairman of the West Bengal Housing Board, the respondent no. 2 therein has been directed to dispose of the letter dated 4th March, 2009 of the petitioner in accordance with law. However, as per Section 12 of the West Bengal Housing Board Act, 1972 (hereinafter referred to as 'the Act of 1972'), the Housing Commissioner, who is the Chief Executive Officer, is the

appropriate authority to decide and dispose of the letter of the petitioner. On such ground, he seeks for modification of the judgment and order dated 14th June, 2023 directing the Housing Commissioner, West Bengal Housing Board to dispose of the letter of the petitioner dated 4th March, 2009 instead of Chairman of the Board as directed in the judgment.

Mr. Ram Anand Agarwala, learned advocate for the petitioner submits that the application for modification has been filed after the petitioner filed an application for contempt. At the time of hearing of the writ petition, this was never pointed out before the Hon'ble Court. Hence, the application for modification should be dismissed in *limine*.

By judgment and order dated 14th June, 2023, the Hon'ble Court passed the following direction, which is quoted hereinbelow:

“For the reasons stated above and considering the constitutional scheme of right to property having a legal and human right the Chairman, West Bengal Housing Board, respondent no. 2 herein is directed to dispose of the letter dated 4th March, 2009 written by the petitioner in accordance with law on due consideration of all the documents filed by him and after giving liberty of hearing to the petitioner or his authorized representative and pass a reasoned order with regard to allotment of land or otherwise within 60 days from the date of communication of the order”.

By such order, the Chairman, West Bengal Housing Board, respondent no. 2 was directed to dispose of the letter dated 4th March, 2009 written by

the petitioner in accordance with law. Section 12 of the Act of 1972, as indicated by learned advocate for the applicant provides that the Board shall have a Housing Commissioner, who shall be the Chief Executive Officer and such other officers and employees as the Board may consider necessary for the efficient performance of its functions. However, no provision in the Act of 1972 could be indicated wherein the Chairman of the West Bengal Housing Board is debarred from considering such letter of the petitioner, as directed in judgment and order dated 14th June, 2023 of this Court. In view of the above, the application for modification falls short of merit.

Accordingly, the application for modification being **CAN 6 of 2023** stands dismissed.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(**Bivas Pattanayak, J.**)