

04
04.07.2023
Ct. No.10
b.das

W.P.A. 7536 of 2023
Alok Chakraborty & Ors.
vs.
Union of India & Ors.

Mr. Mohinoor Rahaman
Ms. Maria Rahaman
Ms. Iqra Rahaman
..... for the petitioners.
Mr. Chandi Charan De
Mr. A. Sarkar
.....for the State.
Mr. Asit Kr. De
...for UOI.

Heard learned counsels for the parties.

By consent of the parties, the writ petition is taken up for consideration.

The petitioners have assailed the notice of eviction issued by the respondents on 21st March, 2023. The petitioners claim to be in possession of the plot in question and was requested by the railway authority to submit proper documents regarding formation of registered co-operative society for taking necessary action on the proposal of the petitioners for doing business on spareable railway land on co-operative basis.

The petitioners formed such co-operative and communicated the same to the railway authorities despite which no further step was taken by the

authority who issued notice of eviction upon the petitioners on 2nd February, 2023.

The petitioners approached this Court seeking to submit a comprehensive representation before the concerned authority in this regard.

By an order passed on 16th February, 2023, in WPA 3478 of 2023 this Court granted liberty to the petitioners to submit a comprehensive representation before the concerned authority and directed the authority to consider and dispose of the representation within a stipulated time frame.

It is submitted on behalf of the petitioners that pursuant to the said order, the petitioners submitted comprehensive representation before the concerned authority on 27th February, 2023. The petitioners received a notice of eviction from the authority on 21st March, 2023 requesting them to vacate the plot in question within seven days of receipt of the notice. The representation submitted by the petitioner was not considered by the authority, nor was any opportunity of hearing granted to the petitioners in terms of the earlier order of this Court.

The petitioners pray for quashing of the said notice and reconsideration of their representation upon granting them reasonable opportunity of hearing.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that

since there is no reflection in the notice impugned to the effect that the representation submitted by the petitioners was considered by the authority or reasonable opportunity of hearing was granted to the petitioners in consideration of the said representation, the notice impugned is required to be set aside.

Accordingly, the notice of eviction issued on 21st March, 2023 by the Senior Assistant Engineer, Eastern Railway, Dankuni is set aside.

The writ petition is disposed of directing the 5th respondent to revisit the issue and consider the representation submitted by the petitioners on 27th February, 2023 upon granting reasonable opportunity of hearing to the petitioners/their authorised representative and dispose of the same within six weeks from the date of communication of this order, in accordance with law.

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

No coercive action be taken against the petitioners by the authority till a week after communication of the order passed upon consideration of the representation.

The writ petition is 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.)