

Mita Saha & Anr.

Vs.

The State of West Bengal & Ors.

Mr. S. Ghosh,

Mr. M. N. Roy,

Mr. Biswarup Nandy.

... for the petitioners.

Mr. Raja Saha,

Mr. S. P. Lahiri.

... for the State.

Ms. Jonaki Saha.

... for the respondent

nos. 3 to 6.

Mr. Sandip Kumar Bhattacharyya.

... for the respondent no. 4.

The appropriate and innocuous order passed by the Tribunal is further challenged before this Court inviting attention of this Court to decide the cause, which has been entrusted upon the fact finding authority.

There is a rival claim for family pension at the behest of two ladies claiming to be the widows of the deceased Government employee. The private respondent claims to be the first wife as the marriage was solemnized prior to the alleged marriage of the writ petitioner no. 1. On the other hand, the petitioner no. 1 submits that she is the first wife as the marriage was solemnized as per the Hindu rituals which would be evident from the registration made under the aforesaid Hindu Marriage Act.

In view of the rival claim having been made the respondent authority was directed to take a decision on the basis of the disclosure of the documents filed by the respective parties. It appears from the record that the respondent authority showed his inability to arrive at the decision as neither of the parties submit

the documents in support of their respective claim. This led to another litigation to be initiated before the Tribunal at the behest of the writ petitioners, wherein it is contended that all the relevant documents were submitted before the authority, yet the authority have shown reluctance to take a decision.

If such contention is accepted, it is no doubt true that the authorities have shown apathetic approach in addressing the issue shirking the responsibility entrusted upon it by the Tribunal to take a decision.

It is not expected from a responsible officer of the Government to show reluctance in taking a decision that no document was filed which was evidently filed before the said authority. It leads to only one impression that the said authority with certain notion declined to take a decision.

However, the Tribunal after having found that the documents were submitted directed the respondent authorities to take a decision upon permitting the rival claimants to submit the documents in their possession.

Obviously the fact finding authority has to arrive at the decision on the basis of the factual disclosure and the moment the Tribunal has directed the authority to take a decision, we do not find any justification warranting interference with the order impugned.

However, we make it clear that the said officer should be cautious while discharging the duties entrusted upon him in terms of the order of the Tribunal or Court and shall not shy away from taking a decision under one pretext or another that too on the factual ground, which does not appear to be correct in view of the disclosure made by the writ petitioner before the Tribunal.

It is made clear that the said respondent would adhere to the time limit indicated in the impugned order and shall not unnecessarily prolong the adjudication.

With these observations, the writ petition is disposed of.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)