

17.04.2023
Item No.6
gd/ssd

WPA(P)/157/2023
RAMA PRASAD SARKAR
VS
STATE OF WEST BENGAL AND ORS.

Mr. Rama Prasad Sarkar
... Petitioner (In Person).

Mr. S.N. Mookherherjee, learned Advocate General,
Md. T.M. Siddiqui,
Mr. D. Ghosh,
Ms. A. Pandey
... for the State.

Mr. Sudipta Dasgupta,
Mr. Bikram Banerjee,
Mr. Arka Nandi,
Mr. Sagar Dey
... for the Respondent No.4.

1. By this public interest litigation the petitioner is a practicing Advocate of this Court has sought for issuance of a Writ of Mandamus to direct the 4th respondent to prevent the implementation of “Bandh” called on 10th March, 2023 and 6th April, 2023.

2. The petitioner appearing in person would submit that on account of strike called by the 4th respondent/Federation of employees the innocent public are put to serious prejudice and has caused great economic loss to the State which cannot be compensated. It appears that the 4th respondent/Federation has given a call for conducting

a cease work on the aforementioned dates highlighting the main issue with regard to the dearness allowance.

3. On the last hearing date, namely, 6th April, 2023 when the matter was heard, we suggested to the learned Advocate General that the State Government can consider inviting the office bearers of the 4th respondent/Federation for a dialogue. However, on account of no staff members reporting for duty on the said date, we were unable to pen down an order on 6th April, 2023.

4. However, learned Advocate General was fair enough to state that no written orders need be passed and he will do the needful in the matter.

5. When the case is taken up today, the learned Advocate General has submitted that the State will hold a dialogue with five nominees of the 4th respondent/Federation and on behalf of the State a Committee headed by the Chief Secretary of the Government of West Bengal will be constituted and date will be fixed for conducting the dialogue.

6. The office bearer, Mr. Bhaskar Ghosh, convener of the 4th respondent/Federation is present in Court.

7. This Court made certain observations as to how the cease work which was conducted on 10th March, 2023 and 6th April, 2023 had affected the

functioning of this Court not to say about the other offices of the State Government.

8. The writ petitioner appearing in person submitted that the Government has issued an order that employees who do not report for work will lose their salary and their absence will be treated as break in service.

9. We are not here to make any observation in this regard and it is for the State Government to act in accordance with law. We have reasoned out to Mr. Bhaskar Ghosh, convener of the 4th respondent/Federation that the issue relating to the dearness allowance is now pending before the Hon'ble Supreme Court in an appeal filed by the State of West Bengal against the judgment of the Hon'ble Division Bench of this Court and it may not augur well for the Federation or its affiliates to call for pen down, strike or cease work, especially when the matter is subjudice before the Hon'ble Supreme Court. We hope and trust that this observation made by us will be taken in the right spirit by the 4th respondent/Federation. Without prejudice to the rights of the parties, the representatives of the 4th respondent/Federation are directed to participate in the dialogue with the State Government with the Committee constituted by the State Government headed by the Chief Secretary of the Government of West Bengal and whatever discussion is

being made during those proceedings will not in any manner impinge upon the rights of the employees or that of the State Government which has filed an appeal before the Hon'ble Supreme Court. The State Government shall fix a date for the meeting within ten days from date and intimate the convener of the 4th respondent/Federation so that five of its nominees can participate in the meeting on the date, time and place fixed by the Chief Secretary of the Government of West Bengal.

10. The learned Advocate appearing for 4th respondent/Federation submitted that the observation made by this Court should not be taken to be a direction on the State Government.

11. We are clear in mind that we have not issued any direction and we had only recorded the submission made by the petitioner pointing out an order passed by the State Government and the observation made by us to the 4th respondent/Federation was to the effect that we hope and trust that the observation would appeal to the 4th respondent/Federation. This clarification is issued in the light of the submissions made by the learned Advocate for the 4th respondent that right to conduct a peaceful strike is a fundamental right in terms of the relevant Rules framed in the State.

12. With the above direction, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)