

12 23.03.2023
rkd Ct.15

W.P.A. 10176 of 2014

Manab Chandra Ghosh & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Partha Sarkar,
Mr. Abhijit Basu

....for the petitioners.

Mr. Tapan Kumar Rakshit

....for the respondent nos.3 & 4.

Mr. Lalit Mohan Mahata,
Mr. Rudranil De

....for the State.

The writ petition is filed by fifteen daily rated workers working in Kalyani Municipality claiming benefit of order dated 23rd April, 2010 issued by the Principal Secretary, Municipal Affairs Department, Government of West Bengal.

Learned advocate for the petitioners informs this Court that the petitioner nos. 5, 8 and 13 have died in the meantime and some of the petitioners have crossed the age of 60 years.

Previously writ petition being WPA 28973 of 2013 was filed by the petitioners claiming benefit of the said order dated 23rd April, 2010. The said writ petition was disposed of by a coordinate Bench vide order dated 20th December, 2013 directing the Principal Secretary, Municipal Affairs Department to consider the representation of the petitioners by passing a reasoned order. Accordingly, Principal

Secretary, Municipal Affairs Department being the respondent no.1 passed order on 17th January, 2014 whereby the claim of the petitioners has been spurned. The said order dated 17th January, 2014 of the respondent no.1 is under challenge in the present writ petition.

The learned advocate for the petitioners submits that in view of the issue decided by a coordinate Bench on the writ petition being WPA 21544 of 2014 (Parimal Mondal & Ors. -vs- State of West Bengal & Ors.) the respondent no.1 was required to decide the claim of the petitioners extending the benefit of Government Order dated 23rd April, 2010 taking into consideration the conclusion arrived at by the coordinate Bench in the order dated 5th August, 2014 passed in Parimal Mondal (supra).

It has further been submitted that other considerations as appears from the impugned order are not relevant in view of the issue decided in Parimal Mondal (supra); since the impugned decision has been taken by the respondent no.1 based on other issues same cannot survive.

State respondents are represented by the learned advocates but in spite of granting opportunity to the State respondents to file

affidavit-in-opposition till date no affidavit-in-opposition has been used. Therefore, this Court proceeds on the basis of the materials available on record as on date.

Having considered the submissions made on behalf of the respective parties and on perusal of the order passed by the respondent no.1, it appears that while deciding the issue whether the benefit as contemplated under the Government Order dated 23rd April, 2010 can be granted to the petitioners or not being the daily rated workers working in Kalyani Municipality the respondent no.1 observed in the impugned order that the benefit in terms of Government Order dated 23rd April, 2010 have not been extended to similarly circumstanced daily rated workers working in other municipalities.

It has also been stated in the impugned order that petitioners being the daily rated workers were engaged without the nod of the concerned department in the State Government in terms of the relevant provisions of the West Bengal Municipal Act, 1993 therefore it has been found that the petitioners are not entitled to derive benefit from such Government Order dated 23rd April, 2010.

Having perused the order passed by the

coordinate Bench on 5th August, 2014 in Parimal Mondal (supra), it appears that the issue has been decided by the coordinate Bench that eligible daily rated workers are entitled to derive benefits pursuant to the Government Order dated 23rd April, 2010 subject to fulfillment of the following conditions:-

- i) *whether the casual/daily rated workers had been attached to respective Urban Local Bodies for not less than ten years as on April 1, 2010 or not;*
- ii) *whether the casual/daily rated workers rendered service for at least 240 days in each year or not.*

It appears that while taking decision on the claim of the petitioners to derive benefit in terms of Government Order dated 23rd April, 2010 respondent no.1 is required to follow the above tests and to find out whether the aforesaid two conditions are fulfilled or not.

In view of aforesaid scenario the order passed by the respondent no.1 dated 17th January, 2014 stands se aside.

The Principal Secretary, Municipal Affairs, Government of West Bengal is directed to revisit the issue and to take a decision taking into

consideration the issue decided by the coordinate Bench in Parimal Mondal (supra).

Before taking such decision opportunity of hearing shall be granted to the petitioners or their representative as well as the representative of Kalyani Municipality.

Petitioners shall be at liberty to rely upon the relevant orders passed by this Court including the order passed by the coordinate Bench in Parimal Mondal (supra).

The reasoned order shall be passed by the Principal Secretary, Municipal Affairs Department, Government of West Bengal within a period of twelve weeks from the date of communication of this order and the same shall be communicated to the petitioners within one week thereafter.

With the aforesaid direction, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)