

June 9, 2023
Sl. No.16
Court No.19
s.biswas

CO 1710 of 2023

Maa Tara Construction and others
vs.
Sonali Saha

Ms. Sananda Ganguli
Mr. Shubhradip Roy

... for the petitioners

Mr. Mrinal Kanti Ghosh

... for the opposite party

A substantial point has been made out by the learned advocate for the petitioners, inasmuch as, refusal of the learned State Consumer Disputes Redressal Commission to allow extension of time to file the questionnaire in the proceedings being Complaint Case No.364 of 2019, at a later date may cause irreparable loss and injury to the opposite parties.

It appears that by an order dated April 8, 2022, the learned Commission directed the opposite party nos.1, 2 and 3 to file their questionnaire by July 28, 2022. On July 28, 2022, the petitioners did not file their questionnaire and an adjournment was allowed. As a last chance, September 20, 2022 was fixed for filing the questionnaire. Again, a prayer for extension of time to file the questionnaire was made on the ground that the learned advocate for the opposite party was unwell. The learned Commission did not allow such extension and fixed the proceedings for filing evidence on affidavit.

According to this court, if the petitioners are not allowed to file their questionnaire before the learned Commission, denial of such rights would cause irreparable loss and injury and a substantive right to contest the proceedings will stand negated.

Hence, the order dated September 20, 2022 is set aside. The questionnaire shall be filed by the petitioner on the next date fixed.

However, the opposite party cannot suffer on account of such failure of the petitioners to file their questionnaire within the time stipulated by the court. Hence, cost of Rs.10,000/- shall be paid to the claimant within 10 days from date . Such cost shall be tendered to the learned advocate of the claimant appearing before the learned Commission. The learned advocate shall issue a receipt. Such receipt shall be filed before the learned Commission. The learned Commission on being satisfied about the payment of cost, shall accept the questionnaire that shall be filed by the petitioners. Thereafter, the hearing of the matter shall be expedited.

This Court is of the opinion that the jurisdiction of the revisional court under Article 227 of the Constitution of India can be invoked against orders passed by the learned Commission if substantial injustice has been caused to a party. If an order

results in miscarriage of justice, the High Court can interfere and rectify the wrong.

The revisional application is thus disposed of.

All the parties shall act on the basis of a server copy of this order.

(Shampa Sarkar, J.)