

19th June,
2023
(AK)
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W.P.A 13673 of 2023

Walter Laboratories Private Limited
Vs.
West Bengal Financial Corporation and another

Mr. Dilip Kumar Samanta
Mr. Biswapriya Samanta
Ms. Tithi Paul

...for the petitioner.

Despite service, none appears for the respondents.

Affidavit-of-service filed in court today be kept on record.

Learned counsel for the petitioner argues that the petitioner had initially moved this court, asking for the disbursal of an amount in favour of the petitioner.

Ultimately the matter was referred to mediation by a Division Bench of this Court vide order dated October 1, 2012 passed by the said Division Bench in FMA 808 of 2010.

It was recorded in the order that the learned Mediator would consider any document that might be produced by the parties and that the agreement of mediation can be implemented but if any of the parties does not accept it in accordance with law and if it is not accepted within a fortnight from the date of agreement of mediation, then any of the parties can mention the matter

to the appropriate Bench for passing a decree under the provision of Mediation Rules framed by this court. If it was not settled, the parties were to mention the matter. Accordingly, the matter was adjourned *sine die*.

Subsequently, after going to mediation, the learned Mediator arrived at a settlement between the parties and by way of a report filed by the Mediator, recorded the same.

A copy of the said report of the learned Mediator is annexed at page-35 of the present writ petition.

It is argued that although the said resolution took place and none of the parties challenged the same, the respondent authorities have failed to give effect thereto.

As such, the petitioner was compelled to give a representation on May 4, 2023 to the respondent authorities, in particular the Managing Director of the West Bengal Financial Corporation, for release of the sum, recording therein the entire narrative of events as discussed above.

However, no action has been taken by the respondent authorities on the same.

It is submitted that the respondents be directed to pay the amount directed to be disbursed by the Mediator, along with interest thereon due to non-payment for so long by the respondents.

It is seen from the records that, undoubtedly, no challenge has been preferred to the said order of the Mediator before any forum whatsoever.

Hence, the said order has attained finality.

Although the Division Bench was pleased to adjourn the matter *sine die*, it was clearly recorded in the order of the Division Bench that the agreement of mediation can be implemented, unless any of the parties challenged the same.

In the absence by any such challenge, the order has attained finality and it is the incumbent duty of the respondents to pay the sum of Rs.33 lakh and also a sum of Rs.9,34,493/- being the amount of interest up to July 21, 2013.

However, since there is nothing on record to indicate that the petitioner had specifically claimed the amount prior to May 4, 2023, no further interest is being directed to be paid on the sum.

In view of the above observations, WPA 13673 of 2023 is allowed, thereby directing the respondent authorities to disburse the sum of Rs.33 lakh (principal) along with Rs. 9,34,493/- by way of interest to the petitioner within one month from the date of communication of this order to the respondents.

However, in the event the said sum is not paid in its entirety to the petitioner by the respondents within one

month from the date of communication of this order to the respondents, the respondents shall pay, over and above the total amount due as per the present order, interest at the rate of 8% per annum till the date of such payment to the petitioner, on the entire payable amount, that is, Rs.33 Lakh + Rs.9,34,493/-.

The petitioner shall communicate this order to the concerned respondents at the earliest and the parties shall act on a server copy of the same without insisting upon prior production of a certified copy.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)