

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 15897 of 2023

Nripotee Ranjan Das
Vs.
The State of West Bengal & Ors.

Mr. Dyutiman Banerjee
...for the petitioner

Mr. Asish Guha,
Mr. Aniruddha Sen
...for the State-respondents

Dr. Madhusudan Saha Roy
...for the WBSEDCL

Learned counsel appearing for the petitioner submits that the petitioner asked for an information from the respondent-authorities, which was initially refused. Ultimately, the matter went up to second appeal under the Right to Information Act, 2005. The second appellate authority directed the respondent-authorities to furnish such information to the petitioner.

However, when the information was sought by the petitioner pursuant to the order of the second appellate authority, the respondents took a new plea to the effect that as per policy on preservation of documents issued by the WBSEDCL, the said authority was required to preserve the documents

for a period of eight years only, which has long expired. As such, the said information cannot be furnished.

Learned counsel appearing for the petitioner argues that the West Bengal State Electricity Distribution Company Limited (WBSEDCL) ought to have taken such objection at the outset, thereby saving unnecessary harassment to the petitioner. However, such defence is not a valid defence at this belated juncture.

Learned counsel appearing for the WBSEDCL stands by the policy-in-question and submits that the WBSEDCL complied with the said policy in disposing of the documents after eight years.

It is seen from the order of the appellate authority, annexed to the writ petition, that the said authority directed the SPIO (State Public Information Officer) to furnish the information-in-question to the petitioner.

However, the point as canvassed here was also taken before the said authority. It was recorded by the second appellate authority that an 'action-taken report' dated May 03, 2023 was produced, wherein it was mentioned that the record sought is of August, 2006 and as per Policy on Preservation of Documents in WBSEDCL, a document is to be preserved for eight years.

It was further observed that there may be a policy of maintenance and destruction of record, but if document is not destroyed as per policy, the available information from the documents is to be provided.

In the present case, however, the respondents, that is, WBSEDCL, through its SPIO, has categorically informed that in compliance of the order dated May 11, 2023 of the State Chief Information Commissioner, West Bengal, a committee was constituted vide O.O. No. 03 dated May 22, 2023 of the Divisional Manager, Bidhannagar-I Division, for thorough search of all the available official records. The Committee, after detailed enquiry, submitted a report that the documents as sought for have been duly disposed of in the years 2016 and 2018, due to which the information could not be furnished to the petitioner.

In view of such stand being in consonance with the direction of the second appellate authority, particularly in view of the existence of the policy-in-question of preserving documents up to eight years, no fault could be found with the action of the respondent-authorities in refusing the information to the petitioner on such count.

Accordingly, W.P.A. No. 15897 of 2023 is dismissed without, however, any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)