

18.04.2023
Item Nos.9 & 10
Ct. No.1
RP/KS

W.P.A. (P) 283 of 2021

Salauddin Mudi & Anr.
Vs.
The State of West Bengal & Ors.

With

W.P.A. (P) 285 of 2021

Biswanath Tarafdar & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Surendra Kumar Sharma
.....For the Petitioners (**W.P.A.(P) 283 of 2021**)
Mr. Sabyasachi Chatterjee
Mr. Dipankar Das
Mr. K. Ghosh
.....For the Petitioners (**W.P.A.(P) 285 of 2021**)
Mr. Alok Kumar Ghosh
Mr. Subhrangsu Panda
.....For the K.M.C. (**W.P.A.(P) 283 of 2021**)
Mr. Jahar Lal De
.....For the State (**W.P.A.(P) 283 of 2021**)
Mr. Sudarsan Roy
Mr. Romit Bose
Mr. D. Majumdar
.....For the North Dum Dum Municipality
(**W.P.A.(P) 283 of 2021**)
Ms. Joyee Maiti
.....For the Pollution Control Board
Mr. Amales Roy
Ms. Moushumi Bhowal
.....For the South Dum Dum Municipality
(**W.P.A.(P) 283 of 2021**)

1. By this writ petition styled as a public interest litigation, the petitioners seek for a mandamus to direct the respondents to immediately cause a thorough investigation based on a complaint which has been lodged by the writ petitioners, wherein the

water bodies have been illegally converted and construction have been put up on the said land. The reliefs sought for in the petition by the petitioners is very wide in nature and the writ petitioners have impleaded several municipalities and local bodies as party respondents. However, the petitioners have not impleaded any alleged encroachers. The case as projected by the writ petitioners had got a positive turn pursuant to the report filed on behalf of the State respondents namely, respondent nos.9, 19 and 20 wherein, it has been admitted that there has been a change of character of the land partially in certain cases and in some cases in its entirety. The question would be as to what action the State respondents have taken after having found, as a matter of fact, that there has been an illegal change of character of the land.

2. Learned counsel appearing for the State respondents has pointed out that the authorities have initiated action and one such order which has been passed by the Revenue Inspector, Sultanpur – I dated 22.11.2021 was referred to as well as the show-cause notice issued under Section 57 read with Section 4C (5) of the West Bengal Land Reforms Act, 1955, issued by the Block Land & Land Reforms Officer, Barrackpore – II, North 24 Parganas were referred to. Though it may be true that the authorities have

initiated action, it is not clear as to why the authorities did not take any action prior to filing of this public interest litigation, though the other respondents such as respondent nos.10, 11 and 12 have filed their objections and stated that all allegations made are false. The fact remains that there is change of character of the land and such change has been, prima facie, found to be illegal. Therefore, the municipalities and local bodies, the Block Land & Land Reforms Officers and the Revenue authorities cannot turn a blind eye to such illegalities after having accepted the fact that there has been illegal conversion of the character of the land in some case either partially or in its entirety. Since the reliefs as sought for by the writ petitioners are very wide stretching to the areas under the jurisdiction of the several municipalities and other local bodies, for the present, the following directions will meet the ends of justice.

3. Accordingly, the writ petitions stand disposed of by directing the respondent nos.9 to 21 to immediately cause an inspection of all the areas falling in their jurisdiction and wherever there has been illegal change of character of the land action should be initiated immediately under the provisions of the relevant enactment. In cases, where actions have already been initiated and show-cause notice

has been issued under the provisions of the West Bengal Land Reforms Act or under the provisions of the West Bengal Inland Fisheries Act, such action should be taken to the logical end with expedition. The persons responsible for illegal change of character of the land should be issued show-cause notices and an enquiry should be conducted and final order should be passed within the time stipulated under the relevant statute. If the change of character of the land is illegal, it goes without saying that the building put up in those lands are also illegal. Therefore, the respondents are directed to issue necessary notice preventing any construction being put up in those properties where there is a change of character of the land and where enquiries or proceedings have already commenced and also to ensure that no new construction is permitted nor any application for grant of permission should be entertained by the respondents till the enquiry is completed in terms of the above direction under the relevant statute.

4. The State Government represented by the Principal Secretaries of the respective departments namely, the 1st respondent, 3rd respondent and the 4th respondent shall issue a circular to all of their officers and to make wide publicity to the public that any unauthorized and illegal change of character of

the land or classification will be viewed seriously and an action would be initiated by treating such of those persons as land grabbers. The above direction be completed within the time stipulated under the relevant statute and, in any event, the action should not prolong for a period of more than six months.

5. With the above directions, writ petitions stand disposed of.

6. As we have already pointed out that the reliefs sought for by the writ petitioners in this public interest litigation is very wide in character covering large areas and there may be cases where the concerned municipality or Gram Panchayat or local body might not have been impleaded as party respondents, even in those areas the District Magistrate or Executive Officer of the concerned municipality or local body shall take note of this direction and initiate action in accordance with law.

7. There shall be no order as to costs.

8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)