

AD-13
Ct No.09
26.07.2023
TN

WPA No. 16462 of 2023

Tojemmal Hossain Faridar @ Tojammel Faridar
Vs.
The State of West Bengal and others

Mr. Bhagbat Chaudhuri

.... for the petitioner

Mr. Asim Kr. Ganguly,
Mr. Tarak Karan

.... for the State

Learned counsel for the petitioner submits that previously the petitioner had sought an information under the Right to Information Act, which was not given to the petitioner. The matter went up to the second Appellate Authority.

Having got no relief there, the petitioner had approached this court under Article 226 of the Constitution of India, giving rise to WPA 1309 of 2023. The said writ petition was disposed of by a coordinate Bench of this court vide order dated February 10, 2023, thereby observing that since the second Appellate Authority became defunct and had not been reconstituted till then, the respondent no.3 therein, that is, the Sub-Divisional Officer, Uluberia and Competent Authority, Urban Land Ceiling, Howrah would supply the information sought by the petitioner

on March 17, 2022 and April 25, 2022 within a period of four weeks from that date.

It is contended that, subsequently, the concerned authority has taken a plea that the report could not be traced out. Being so aggrieved, the petitioner has preferred the present writ petition.

Learned counsel appearing for the respondent authorities submits that the petitioner has a remedy by way of an appeal against the impugned action of the respondent authorities.

That apart, it is contended that despite diligent efforts of a search team, the desired report could not be traced out, as intimated to the petitioner.

It is further submitted that the same information had been sought previously by the brother of the petitioner and, by a communication dated December 28, 2012, it was intimated by the Sub-Divisional Officer, Uluberia, Howrah and SPIO that there was no enquiry report of Case No. 327/1976-77 on 2.4.87 by KGO-I.

Upon hearing learned counsel for the parties, it is evident that a similar information, sought previously by the petitioner's brother, had been turned down on the same ground, that there was no such enquiry report.

Moreover, the respondent authorities substantially complied with the order of the coordinate Bench dated February 10, 2023, inasmuch as the respondent authorities undertook an elaborate search for the said report. As indicated in the communication dated March 31, 2023, annexed at page-71 of the writ petition, even after sincere and diligent effort put in by the search team, the desired report could not be traced out from all available records/documents/files in the office of the competent authority, which was intimated to the petitioner.

Although it has been argued on behalf of the petitioner that the records might lie before the first Appellate Authority, the said submission cannot generate a further enquiry before the first authority, in view the statement of the Competent Authority, in its communication, to the effect that a diligent effort was made by the search team constituted for such purpose to find out the document, which resulted in the report not being traced.

Hence, there is no scope of granting any further relief to the petitioner.

Accordingly, WPA No. 16462 of 2023 is disposed of in the light of the above observations, keeping on record the communication dated December 28, 2012 handed over by learned counsel for the respondents.

Nothing in this order, however, shall prevent the petitioner from approaching the first Appellate Authority and/or the second Appellate Authority seeking a further search to trace out whether the documents-in-question are lying before the said authorities and/or to apply in due course of law for discovery before a competent civil court, if any civil suit is filed, in which the documents-in-question acquire relevance.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)