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11.10.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A. 17717 of 2023
IA No. CAN 1 of 2023**

**Ghoramara Vidyasagar Smriti Sangha Mahila
Samabay Samity Limited & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Rudranil De,
Mr. Saikat Pal.
...For the Petitioners.**

**Mr. Santanu Kumar Mitra,
Ms. Rama Halder.
...For the State.**

**Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee.
...For the Applicant.**

The notice inviting e-auction dated 14th July, 2023 published by the Executive Officer, Domkal Panchayat Samity is impugned in the present writ petition.

The petitioners are aggrieved by the clause mentioned in the said NleA regarding preference to be given as per Rule 281(III) of the West Bengal Land and Land Reforms Manual, 1991.

It has been submitted that the said Rule will not be applicable in respect of the auction conducted at the instance of the Panchayat Samity. The same will be

applicable only in respect of the auction held at the instance of the District Land and Land Reforms Officer.

It has been contended that in view of the preferential clause mentioned in the notice inviting e-auction the chance of the petitioners to be selected will be reduced.

Learned advocate appearing for the Domkal Panchayat Samity submits that the Block Development Officer acting as the Executive Officer of the Panchayat Samity published the e-auction notice in a manner not prescribed in law.

The date on which the e-auction notice was published, the Panchayat Samity was yet to be constituted after declaration of the result of the Panchayat Samity election on 11th July, 2023.

It has been submitted that there are several allegations against the Block Development Officer who published the said e-auction notice.

Learned advocate refers to the judgment dated 10th May, 2023 passed by a Coordinate Bench of this Court in WPA 22046 of 2022 (Rabin Majhi –vs- The State of West Bengal & Ors.). The Court directed fresh auction to be conducted in respect of the 19 ferry ghats.

The District Magistrate was directed to take over supervision of the entire process and monitor the steps so that the administration functions in the best interest of the Panchayat Samity and in a transparent manner. The auction was to be held within four weeks from the date of communication of the judgment.

In the report filed by the Block Development Officer, it has been mentioned that the District Magistrate constituted a committee consisting of District Panchayat & Rural Development Officer to act as Chairman, the Block Development Officer, Domkal to act as a Secretary, the Treasury Officer, Domkal Sub-Division to act as a member and directed that the committee shall perform all duties necessary for compliance of the direction passed in the judgment dated 10th May, 2023.

It has been submitted that the Block Development Officer acted in accordance with the direction passed by the Court.

At the time initial hearing of the writ petition by order dated 1st August, 2023, the Court restrained the Executive Officer of the Panchayat Samity from proceeding any further with the impugned notice inviting e-auction. Because of the interim order, the notice inviting e-auction could not be finalized.

After hearing the submissions made on behalf of all the parties, it appears that the said e-auction notice was published for settlement of ferry under the control of the Panchayat Samity without including any member of the Panchayat Samity in the committee constituted for settlement.

The Court in the earlier writ petition categorically directed that the District Magistrate will supervise the entire process and act in the best interest of the Panchayat Samity. Not including any member of the Panchayat Samity in the committee for settlement of the ferry of the Samity will certainly not be in the

interest of the Samity. At the time of settlement of ferry of the Panchayat Samity, the members of the Panchayat Samity may have a say.

As regards the application of Rule 281 (III) of the West Bengal Land and Land Reforms Manual, 1991, a coordinate Bench of this Court in order dated 15th March, 2023 in WPA 5940 of 2023 (Matara Heridity Patni Ferry Service Co-operative Society Limited & Anr. –vs- The State of West Bengal & Ors.) held that the provision is restricted to settlement and decision of ferry ghats by the District Land and Land Reforms Officer.

The same implies that the restriction in Rule 281 (III) will not be applicable in respect of the settlement of ferries by the Panchayat Samity.

In view of the above, the impugned e-auction notice cannot be supported in the eye of law. The same is liable to be set aside and is, accordingly, set aside.

The District Magistrate, Murshidabad is directed to act in accordance with the direction passed by this Court on 10th May, 2023 and supervise the process of settlement of ferry ghat. Representative of the Panchayat Samity shall positively be included as member of the committee that may be constituted for settlement of the ferry ghat.

The function of the District Magistrate shall only be restricted to monitoring the settlement which shall be in accordance with the West Bengal Panchayat Act, 1973 and the corresponding rules.

Steps shall be taken in the matter at the earliest, but positively within a period of four weeks from the date of communication of this order.

Several allegations are leveled against the Block Development Officer, Domkal. The Block Development Officer being the Executive Officer of the Panchayat Samity is not supposed to interfere in the regular day to day affairs of the Panchayat Samity.

It will be open for the Panchayat Samity to take necessary steps in accordance with law against the Executive Officer of the Panchayat Samity, if so advised.

The writ petition stands disposed of.

In view of the disposal of the writ petition, the connected application stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)