

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

W.P.A 14001 of 2009

Samir Parua
-Vs-
State of West Bengal & Ors.

For the Petitioner: Mr. Udayan Roy, Adv.,
Mr. Sukanta Mondal, Adv.,
Mr. Debabrata Roy, Adv.

For the Haldia Development Authority:
Mr. Amit Kumar Nag, Adv.,
Mr. Partha Banerjee, Adv.

For the Haldia Municipality:
Mr. S.M Hassan, Adv.,
Ms. Anupama Yasmin, Adv.

Heard on: 24 August, 2023.

Judgment on: 5 September, 2023

BIBEK CHAUDHURI, J. : –

1. The petitioner in this instant writ petition is one Samir Parua, who was the owner of Plot No.857, under Mouza Sovarampur, District-Purba Midnapur. For the purpose of establishing an Industrial Complex and the development of the Haldia Project, under the West Bengal Infrastructure and Industrial Development Act, 1974 (hereinafter, 'The Act') the Land Acquisition Collector acquired the land of the petitioner under Haldia L.A. case no. HAD-003/1996-97. After assessment of the plot, via memo No. 1122(236) HAD/VII-M-6/97 dated 14.10.1998, the Collector informed the

petitioner that he is to receive an amount of Rs. 81,325 as the market value of the land on 23.10.1998, which he received via a cheque.

2. The petitioner alleges that although the respondent authority acquired the homestead land with the dwelling house measuring about 1.5 decimals out of 3.0 decimals land, the authority did not allow any plot of land in favour of the petitioner for the purpose of construction of a new dwelling house. Therefore, being aggrieved by the inaction on the part of the respondents for not allotting any alternative accommodation or plot of land for rehabilitation in favour of the petitioner, as he was an evicted person, he moved an application under Article 226 of the Constitution of India, being W.P. No. 5152(W) of 2006. The Hon'ble Jayanta Kumar Biswas J., as His Lordship was then, by an order dated 27.01.2009, disposed of the petition holding that:-

"Within three days from the date of communication of this order to the Chairman of the committee, the Chairman shall supply to the petitioner an authenticated legible copy of the decision of the committee dated April 25th, 2005. It is made clear that all reasons in support of the decision, if recorded separately, shall be supplied to the petitioner. The petitioner will at liberty to question the decision of the committee before the appropriate forum by initiating appropriate proceedings. There shall be no order for costs."

3. The petitioner served the copy of the order to the respondents on 27.02.2009, but they did not comply with the directions. It was again served to the petitioners on 18.06.2009. On 02.07.2009, the respondent communicated an order along with the relevant portions of the

proceedings of the meeting of the Rehabilitation Advisory Committee, Haldia held on 25.04.2005 to the petitioner. The petitioner alleges that the respondent ignored and rejected the claim of the petitioner for a separate rehabilitation plot in favour of the petitioner. The petitioner argues that the decision of the Rehabilitation Advisory Committee, Haldia is arbitrary, motivated and purposive as in earlier occasions, the said Advisory Committee allotted plots in favour of the evicted persons in several cases, i.e., in the case of a father and his son. But, through the proceedings dated 25.04.2005, the rehabilitation advisory committee rejected the claim of the petitioner for allotment of a separate rehabilitation plot on the plea that a plot has already been recommended in favour of his father Bangshidhari Parua.

4. The petitioner states that on earlier occasions the respondents had acquired a plot of land for a minor and thereafter the said authority intimated to the said minor Sanjay Kumar Nun that a plot would be allotted to the said minor in connection with the acquisition of the land. Therefore, on earlier occasions, the respondent authority had provided separate plots of land to minors/students as evicted persons but rejected the claim of the petitioner for a separate rehabilitation plot on the plea that the petitioner is a student and an unmarried young man and for that the rehabilitation advisor committee was not convinced that the petitioner is separated from his parents. But, the petitioner alleges that he has no shelter of his own and if he is not provided with an alternative accommodation he will suffer irreparable loss and injury. Therefore,

alleging that such behaviour by the respondent authorities is discriminatory and arbitrary, the petitioner has prayed for the following:-

“a) A writ of or in the nature of mandamus commanding the respondents to allot a land for residential purpose to the petitioner as an evicted person by setting aside the proceeding of the meeting of Rehabilitation Advisory Committee, Haldia held on 2.7.2009 by the Additional District Magistrate, Haldia being the Chairman of Rehabilitation Advisory Committee, Haldia;

b) A Writ of or in the nature of mandamus commanding the respondents to allot a plot of land for rehabilitation in favour of the petitioner being an evicted person.

(c) A writ of or in the nature of certiorari directing the respondents to transmit papers, documents and records of the case, so that conscionable justice may be done.

(d) An ad interim order of Injunction restraining restricting the respondents and their men, subordinates, agents not to evict the petitioner from the plot being Dag Nax No.857 J.L. No. 147 Mouza Sovarampur, District Purba Hidnapur, till the disposal of the aforesaid application.

(e) Rule NISI in terms of prayer (a) (b) (c) and (d) above.

f) Any other writ or writs, order or orders, direction of directions be made as your Lordship may seem fit and proper.”

5. In the opposition-in-opposition filed by respondents 4 and 7, i.e., the Chairman and Chief Executive Officer, Haldia Development Authority, they state that the date of birth of Samir Parua as reported by him was 20.09.1981. According to him, he purchased land in the year 1990 and

constructed a two-roomed pucca building. They allege that the petitioner does not live separately from his father and his father is still his legal guardian. A 10-year-old child cannot live and purchase land and construct a two-storied pucca building alone without any guardian as he is not an orphan. The father of the petitioner was allotted a rehab plot. Rehabilitation is not allotted to each for the acquisition of homestead land until the person is not roofless due to acquisition. Any law does not guide it. It is guided by Government circulars and policy and the Rehabilitation Advisory Committee, constituted by Government Notification considers the matter of allotment of rehabilitation plots. Moreover, the contention of the petitioner that other minors were allotted separate land cannot be considered as, in the supporting documents provided by the petitioner, the date of birth of those people was not mentioned anywhere, therefore, it cannot be ascertained as a fact whether they were really minors. Due to these reasons, the contention of the petitioner ought to be rejected.

6. Consequently, the petitioner has filed an opposition-in-reply where he has reiterated the statements made by him in the writ petition and denied the statements and contentions of the respondents.

7. After hearing the parties at length and a perusal of the materials on record, it is the opinion of this Court that the respondent authorities cannot deny an alternative plot of land to the petitioner just because he was a minor during the time this instant writ petition was filed. This Court refers to the judgment of **Soumen Bag (Minor) vs. The State of West Bengal** in **W.P. No. 7607 (W) of 2005**. In this judgment, which

dealt with a similar issue of the respondent authority, Haldia Development Authority, denying the minor petitioner a suitable plot for his rehabilitation, the Hon'ble Jayanta Kumar Biswas, J., as his Lordship was then held that:

“It seemed to me that there is no substance in the submission made by advocate for the authority that the petitioner is a minor. If the petitioner was the owner of the land, and as such he was entitled to benefit of the scheme or he was entitled to the benefits of the scheme framed for rehabilitation of the persons evicted from the land acquired, then there is no scope to deprive him of the benefits on the ground that he is a minor. There is no dispute that he is represented by his natural guardian father.”

8. The petitioner has no source of livelihood now, and according to the rehabilitation scheme, the respondent authorities have the duty to provide alternative accommodation to a minor, even if his/her father is provided with the compensation amount against the land that has been acquired by them. In this case, the respondent authorities had already paid the compensation for the land according to the market value. But, they cannot argue that they would not provide an alternative land to the minor, on the sole reason that he was a minor.

9. For these reasons, I dispose of the writ petition giving liberty to the petitioner to approach the Rehabilitation Advisory Committee by making an appropriate application for claiming the benefit that is due to him. If the petitioner submits the proper application, then the committee shall

consider it and give a reasoned decision against the application within 8 (eight) weeks from the date of the application.

10. Before giving the decision, the petitioner shall be given the opportunity to be heard and the decision which would be taken must be communicated to the petitioner at once, in a proper manner. If the petitioner is entitled to get an allotment, he should be provided with one within the aforesaid period weeks from the date of the decision, but his application cannot be rejected for the sole reason that he was a minor.

11. This instant writ petition is allowed and disposed of. There will, however, be no order as to costs.

(Bibek Chaudhuri, J.)