

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18542 of 2023

Moinuddin Sk. @ Moynuddin Sk.
Vs.
The State of West Bengal & Ors.

Mr. Rananeesh Guha Thakurta
Ms. Senjuti Sengupta
Ms. Dipa Roy
... For the petitioner.

Mr. Debjit Mukherjee
Ms. Mousumi Banerjee
... For the State

Ms. Amrita Pandey
... For the respondent no.5.

1. The present writ application has been filed, *inter alia*, praying for a direction upon the respondent nos. 3 and 4 to execute the certificate dated 23rd November, 2022.

2. It is the petitioner's case that the petitioner was employed by the respondent no.5 and after working with the said respondent, the petitioner had resigned from service on and from 9st January, 2016. It is the further case of the petitioner that despite the petitioner being entitled to payment of gratuity, since, the gratuity was not disbursed in his favour, he had applied before the Controlling Authority under the provisions of the Payment of Gratuity Act, 1972 (hereinafter referred to as the "said Act") for determination of the gratuity payable to him. On contest, the Controlling Authority was *inter alia* pleased to

determine a sum of Rs.3,33,914/- towards gratuity payable in favour of the petitioner and by a notice in Form R dated 3rd June, 2022, had called upon the respondent no.5 to make payment of gratuity. Since, despite receipt of such notice no steps were taken by the respondent no.5 to disburse gratuity in favour of the petitioner, the petitioner had applied before the Controlling Authority for issuance of a certificate under Section 8 of the said Act.

3. Records would reveal that the Controlling Authority having issued a certificate on 23rd November, 2022 had forwarded the same to the Certificate Officer and the District Magistrate, Howrah, for execution.

4. According to the petitioner no steps have been taken by the Certificate Officer for execution of the certificate.

5. Being aggrieved by the failure on the part of the Certificate Officer to execute the said certificate, the present writ application has been filed.

6. Mr. Mukherjee, learned advocate representing the State respondents by placing reliance on written instruction, copy whereof is taken on record, submits that the Certificate Officer has already started the process for execution of the certificate and has in furtherance thereof, issued a notice to show cause as to why warrant of arrest shall not be issued on the Directors of the respondent no.5. Such notice has been issued on 12th September,

2023.

7. Having regard to the aforesaid and taking into consideration the fact that the respondent no.4 has already taken steps for execution of the certificate, I am of the view that no further order needs to be passed at this stage.

8. In view thereof, the writ application stands disposed of.

9. There shall, however, be no order as to costs.

10. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)