

28.08.2023
Item No.10
gd/ssd

WPA(P)/446/2023
AIN SAHAYATA KENDRA
VS
STATE OF WEST BENGAL AND ORS.

Mr. Kishore Dutta, learned senior advocate,
Mr. Sumanta Biswas,
Mr. Bikash Shaw
..for the Petitioner.

Md. T.M. Siddiqui,
Mr. T. Chakraborty,
Ms. A. Panja Mallick
..for the State.

Mr. Partha Sarathi Sengupta, ld. senior advocate,
Mr. Supriya Chattopadhyay
..for the Respondent No.6.

1. By this public interest litigation the petitioner which claims itself to be a non-governmental organization/society working for the welfare of the downtrodden citizens has come forward with this writ petition canvassing the cause of the 6th respondent which is Belur Sramajibi Swasthya Prakaalpa Samity, Belur, Howrah district.

2. According to the writ petitioner, an extent of 8.439 acres was the land which belonged to a company called M/s. Grand Smithy Works Limited.

3. On and after coming into force of the State Abolition Act in the year 1955, it is alleged that the said company was permitted to retain an extent of 4.606

acres and the remaining extent of 3.833 acres stood vested with the government.

4. It is stated by the petitioner that the 6th respondent/samity had initially established a small hospital for the welfare of the local public and subsequently the facility has expanded. However, on account of lack of adequate space, the vision of the 6th respondent in establishing the 300 bedded super specialty hospital could not be fulfilled. It is further submitted that the hierarchy of the authorities have recommended the request made by the 6th respondent for allotment of the vested land so that the super specialty hospital can be established in the area in question.

5. In this regard the learned senior advocate appearing for the 6th respondent has drawn our attention to the proceedings of the Secretary of the Department of Health and Family Welfare, PPP Cell, Government of West Bengal dated 1.12.2020 addressed to the Department of Land and Land Reforms and Refugee, Relief and Rehabilitation stating that the Department of Health and Family Welfare is of the opinion that the proposal of the 6th respondent for granting long term settlement of an area of 4.606 acres of government land for the purpose of setting up a 300 bedded super specialty hospital may be accepted. The said communication also refers to a no objection

certificate given by the Chief Medical Officer, Howrah dated 06.10.2020. The learned senior advocate has also drawn the attention of this court to the proceedings of the District Magistrate and Collector, Howrah dated 08.01.2021 addressed to the Principal Secretary, Government of West Bengal and Land Reforms Commission stating that the long term settlement may be given in favour of the 6th respondent for the aforementioned purpose of setting up of 300 bedded super specialty hospital.

6. It appears that there is a writ petition pending on the issue at the instance of the company and certain orders have been passed in the said writ petition from time to time by the Hon'ble Division Bench.

7. Be that as it may, we find that the petitioner seeks for a direction upon the respondent/State of West Bengal to grant long term settlement of a government land so as to enable the 6th respondent to establish 300 bedded super specialty hospital.

8. This court exercising jurisdiction under Article 226 of the Constitution of India, more particularly in a public interest litigation, cannot issue any positive direction as sought for by the writ petitioner to grant long term settlement of a government property in favour of a private organization

or individual is a decision which has to be taken by the government. Nevertheless, when public property is to be parted away, appropriate procedure has to be followed and it should be the vision of the government to use such public property for public welfare and instead of parting possession or selling away of the property in favour of the private individuals. However, the 6th respondent has requested for long term settlement so as to enable them to establish the super specialty hospital.

9. As rightly pointed out by the learned Government counsel, the representation given by the writ petitioner is dated 20th July, 2023 and without even giving a reasonable time to the authorities to act, the writ petition has been filed.

10. Thus, in the light of the above conclusion which we arrived at, we make it clear that we cannot grant any positive direction to the respondent/State to part possession of the government land in favour of the 6th respondent or any private individual.

11. However, in the opinion of the government, the objection of the 6th respondent is laudable and it will sub-serve public interest.

12. It will be well open to the appropriate authority of the government to take a decision in accordance with law and while doing so, the

representation given by the petitioner can also be considered.

13. In order to enable the appropriate authority of the government to take a decision in the matter, the petitioner is directed to forward a copy of the representation along with the copy of this order to the appropriate authority.

14. With the above observations, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)