

23.02.2023
Ct. 5
D/L 3
ab

WPA 20349 of 2022

Malda Banana Merchant's Welfare Association &

Anr.

-Vs-

The State of West Bengal & Ors.

Mr. Apurba Kumar Ghosh,
Mr. Rudranil Ghosh,
Ms. Annyasha Chakraborty

.... for the petitioners

Mr. Nilotpal Chatterjee

... for the respondent no. 1 & 2

On 8th February, 2023, the Court had granted an interim protection to the petitioners by restraining the respondent no. 2 being the Malda Zilla Regulated Market Committee from giving effect to a lottery held for allocation of shop rooms for the banana merchants of the area in terms of a communication dated 30th January, 2023. The interim order was passed on the presumption that the petitioners had parted with Rs. 4.50 lakhs for allocation of shop rooms but had not been given the benefit of the same. The Court was, hence, of the view that the respondent no. 2 could not have appropriated the money received from the petitioners and proceeded to hold a lottery in respect of the same shops.

The Report of the Market Committee is now before the Court. Learned counsel appearing for the respondent no. 2 places documents from the Report which show that 39 banana merchants of Malda made payment of Rs. 4.50 lakhs each to the respondent no. 2 for construction of shop rooms for the benefit of the merchants. The construction was undertaken at the cost of Rs. 3 crores of which a nominal amount was taken from the banana traders.

The documents in the Report further indicate that 24 of the 39 banana traders complained to the District Magistrate, Malda and the Chairman of the Committee on 30th May, 2022 stating that the petitioner no. 2 was distributing the shop rooms and stalls to his relatives. Another complaint was made on 2nd June, 2022 by 16 banana traders on the arbitrariness of the distribution. The banana traders accordingly requested for drawing of a lottery to entail a fair distribution of shop rooms. Pursuant to such request, the respondent no. 2, proceeded to hold a lottery on 6th February, 2023.

The interim order passed by the Court on 8th February, 2023, however, has restrained the respondent no. 2 from proceeding any further with the lottery and hence, there is a stalemate as of today.

Upon considering the documents filed with the Report, it is evident that 34 out of 39 banana traders participated in the lottery. Hence, the majority of the

banana traders accepted lottery as a fair distribution of shop rooms, as opposed to the petitioner no. 2 distributing the shop rooms according to his whims and fancies.

The new facts brought on record persuade this Court to vacate the interim order dated 8th February, 2023. The interim order was obtained from the Court without disclosing material information and stands vacated.

Nothing remains to be decided in the writ petition.

WPA 20349 of 2022 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)