

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 21645 of 2023

Kusal Roy
Vs.
State of West Bengal & Ors.

Mr. Ranjan Bachawat,
Mr. Sushovit Dutt Majumdar,
Ms. Pubali Sinha Chowdhury,
Mr. Satyaki Mukherjee,
Mr. Satwik Beriwal
...for the petitioner

Mr. Biswabrata Basu Mallick,
Mr. Tamal Taru Panda
...for the State

Mr. Arunabha Sengupta
...for the respondent nos. 4 and 5

1. The present challenge has been preferred by the petitioner against an order passed by the appellate authority, which has dismissed an appeal against an order of the Sub-Divisional Officer under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. The unfortunate parents apparently sought for visitation rights from their son and made certain allegations against their son, that is, the petitioner, which have been controverted by learned senior counsel appearing for the petitioner.

3. It is contended that in fine, the SDO has directed the petitioner, who is a resident of Bombay, to visit his parental house at least once per month to look after his parents properly and also directed the petitioner to remain present during his father, Dr. Asish Kumar Roy's eye operation as per scheduled date.

4. It is contended that the same was passed *de hors* the provisions of the concerned statute.

5. Learned counsel appearing for the parents submits that on humanitarian grounds, the orders which have been passed are fully justified. It is also submitted that the parents made repeated requests for monetary help as well, which was not given by the petitioner.

6. I find from the records annexed to the writ petition that there is no quantification or mention of the exact heads under which the private respondents/parents seek monetary relief under the concerned Act.

7. Learned senior counsel for the petitioner also points out that in the representation of the parents contained a statement that they had never asked Kusal (their son) for any money, not even now.

8. However, keeping in view the entire tenor of the representation, it transpires that the said sentence is

more of an emotional outburst than a relinquishment of monetary relief by the parents.

9. Despite appreciating fully the anguish of the aged parents and their angst in view of the sufferings they are going through, it was *de hors* the powers of the SDO within the limited constraints of the Act to grant reliefs as directed in the impugned order.

10. The issues raised in the present writ petition are more of a social nature than legal rights having specific remedies.

11. However, this much can be done for the elderly couple that they be given liberty to make a proper application, indicating the exact heads under which they require monetary support from their son and the amount which has already been spent by them.

12. Accordingly, W.P.A. No. 21645 of 2023 is disposed of by setting aside the orders impugned herein. However, liberty is granted to the private respondents/parents to make a fresh application before the concerned SDO under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, specifying therein the exact monetary claims made by them within the four corners of the said statute, upon giving the broad heads and the documents in support of their claim, if any, with the said application.

13. If such an application is filed afresh, the SDO, Baruipur, District-South 24-parganas, shall decide the same upon giving adequate opportunity of hearing to both sides and in accordance with law as expeditiously as possible, positively within eight weeks from the date of such application being made to the SDO.

14. Liberty is also granted to the writ petitioner, on his oral prayer through counsel, to apply before the concerned SDO for permission to appear personally/through learned advocate/virtually.

15. If such an application is made, the same shall also be dealt with adequately in accordance with law by the SDO.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)