

S/L 77
22.06.2023
Court. No. 29
Suwayan

WPA 20679 of 2019

**Golam Rosul Mollah & Ors.
Vs.
The Government of West Bengal & Ors.**

Mr. Baidurya Ghosal

...for the petitioners.

*Mr. Pradip Kumar Roy
Mr. Joydeep Roy
Mr. Tirthojit Roy Choudhury*

...for the State.

1. Both writ petitioners and the State/respondent are represented by their respective learned Advocates.
2. The present writ petition is now taken up for hearing.
3. In support of the instant writ petition Mr. Ghoshal, learned Advocate for the writ petitioners at the very outset took me to Annexure P1 to the writ petition under cover of which Mr. Ghoshal on behalf of the present writ petitioners has sought for an information under Section 6 of the Right to Information Act, 2005 (hereinafter referred to the said Act) from the Special Public Information Officer by issuing a letter dated 21.02.2019. It is the grievance of the writ petitioners that SPIO of the State has not furnished the information as sought for within the specified time as mentioned in the statute, which is why, he has preferred an appeal on 01.07.2019 before the appellate authority.

4. It is submitted by Mr. Ghoshal that during the pendency of the said appeal under the 'said Act' the respondent/State has, however, given reply to the letter dated 21.02.2019 which has been annexed with the marked P4 with the supplementary affidavit as filed before this Court. It is further submitted by Mr. Ghoshal that from Annexure P4 it would reveal that the respondent/State has avoided to reply to the queries as made by the writ petitioners though from Annexure P5 to the supplementary affidavit it would reveal that the relevant recruitment was made as per the G.O. as mentioned in the letter dated 21.02.2019 as addressed to SPIO. Mr. Ghoshal thus submits that it is a fit case for issuance of writ of mandamus upon the respondent/State directing them to furnish replies to the queries as made under cover of his letter dated 21.02.2019.
5. *Per contra*, Mr. Roy, learned Advocate for the State at the very outset submits before this Court that the instant writ petition is not maintainable since the present writ petitioners have not chosen and/or exhausted the proper forum. Mr. Roy, learned Advocate for the State/respondent further submits that in the event the writ petitioners are aggrieved with the information(s) supplied by the State/respondents they are at liberty to approach the appellate forum under the 'said Act' and in not

doing, so, the relief as claimed by the writ petitioners is completely barred.

6. On perusal of the entire materials as placed before this Court and after hearing the learned Advocates for the parties, it appears to this Court that during the pendency of the instant writ petition as well as during the pendency of appeal before the appellate authority the State/respondents have given the replies to the queries of the writ petitioners as made by them under the said Act.
7. It is further revealed to this Court that the present writ petitioners are, however, not satisfied with the reply as given by the State/respondents, that is, the Director and SPIO, West Bengal Fire and Emergency Services' under cover of his letter dated 08.11.2019. Such being the position, this Court is of considered view that since the present writ petitioners are again aggrieved with the informations as supplied to them either on the ground of inadequacy or insufficiency, they have every right to prefer the appeal before the appellate authority under Section 19 of the Right to Information Act, 2005.
8. It, thus, appears to this Court that the present petitioners without exhausting their right before the appropriate forum as provided under the statute has straight way come before this Court to invoke the plenary power of this Court under

Article 226 of the Constitution of India which is not permissible in the eye of law.

9. Accordingly, the instant writ petition being WPA 20679 of 2019 is dismissed with a liberty to the present petitioners to prefer appeal before the appropriate appellate authority under the Right to Information Act.
10. Parties to act on the server copies of this order.
11. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)