

DL-18

19.06.2023
Court No.5
(AD)

WPLRT 195 of 2013
Dulal Chandra Das & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Soumya Ray
Ms. Anwesha Saha
... for the petitioners.

Md. T.M. Siddiqui, Ld. AGP
Mr. S. Dhar
... for the State.

The writ petition is directed against an order dated September 14, 2012 passed in O.A. 1397 of 2012.

By the impugned order, the learned Tribunal directed the concerned Gram Panchayat to consider and decide an application received by the Gram Panchayat on March 23, 2011 for the purpose of grant of licence to undertake fishery within the specified period.

Learned Advocate appearing for the writ petitioners places the title of the writ petitioners in respect of the immovable property concerned. He claims that, the writ petitioners are the raiyat in respect of the property concerned.

We considered the prayers in the original application. The original application contains three prayers. The first prayer is with regard to recording the name of the writ petitioners in the record of rights by deleting the vesting in respect of the property concerned. The second prayer is

with regard to correcting the record of rights. The third prayer is in the alternative of the first two prayers where the writ petitioners seek grant of long term lease in respect of Tank fishery. The third prayer which is in the alternative, is diametrically opposite to the first two. Question of grant of lease does not arise if the writ petitioners are raiyats.

In reply to a query of the Court as to whether the writ petitioners ever approached the authorities for the purpose of correcting the record of rights, the answer is in the negative.

Question of granting a long-term lease or even a licence in respect of a government property without the government undertaking a due process for the same by inviting public in general to participate in the selection process, does not arise.

Gram Panchayat is yet to invite the public in general for grant of lease for Tank fishery. No legal right of the writ petitioners exists for consideration of the prayer for grant of long term lease in preference to other members of the public and in isolation.

Therefore, the application made to the Gram Panchayat for consideration cannot be decided by the Gram Panchayat.

Learned Tribunal erred in directing the Gram Panchayat to consider such application. Tribunal can direct an authority for consideration of an application which such authority is empowered to decide thereon.

In such circumstances, we set aside the impugned order of the learned Tribunal.

We find no merit in the original application.

O.A. 1397 of 2012 is dismissed.

WPLRT 195 of 2013 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

