

27.07.2023
(S/L-77)
Ct.-18
(P.Jana)

W.P.A. 25781 of 2022

Arun Kumar Hait

-Vs-

The State of West Bengal & Ors.

Mr. Emon Bhattacharya,
Mr. Sourish Ray,
Ms. Pooja Sah,

.... For the Petitioner.

Mr. Jahar Dutta,
Mr. Bipin Ghosh,

.... For the State.

Mr. Tulsi Das Maity,

... For the respondent no. 6.

Affidavit of service filed on behalf of the petitioner be kept with the record.

The petitioner was the Headmaster of Dum Dum Kumar Ashutosh Institution (Branch) (HS), Kolkata-30, on superannuation, he retired from his said service on August 31, 2018.

The petitioner filed a writ petition being WPA 8142 of 2022 to have the benefit of ROPA 2019, the said writ petition was disposed of vide order dated June 14, 2022 by directing the District Inspector of Schools(S.E.) Kolkata, the respondent no. 4 to dispose of the pending representation of the petitioner praying such relief.

The respondent no. 4, by the impugned order bearing Memo No. 458/1(5)/RO/Law dated September 12, 2022 has disposed of the said representation holding that he is not in a position to consider the prayer of the petitioner, reasons supplied in support thereof is quoted below:-

“It is revealed that the petitioner did not pay the amount of Rs. 7,78,028/-to Giridharilal, Shewnarain Tantia Trust and also not comply the High Court order dated June 18, 2019 passed in C.C. No. 13 of 2019 arising of W.P. 341 of 2018 as directed by Joint Secretary to the Government of West Bengal vide his order dated August 11, 2021.”

The report submitted by the respondent no. 4 in this matter discloses the same ground for denial of the prayer of the petitioner.

The learned advocate for the petitioner submits that the entitlement of the petitioner to get the benefit of ROPA Rules, 2019 cannot be denied for the alleged non-payment of the amount of Rs. Rs. 7,78,028/- (Seven lakhs seventy eight thousand and twenty eight rupees only) in violation of the order of the High Court.

Having heard the learned counsel for the parties and on perusal of the materials-on-record, it appears that the Giridharilal Shewnarain Tantia Trust(hereinafter referred to as the “Trust” in short) was the owner of the premises where the aforementioned school was originally situated. The premises was requisitioned by the State for the said school but was subsequently de-requisitioned and the school was shifted to a new premises.

The Trust did not get the possession, even after de-requisition of the said premises. The Trust, to get back such possession filed a writ

petition being W.P. 341 of 2018 which was disposed of by directing the concerned Police Station to remove the petitioner, who was allegedly in possession of the said premises and to hand over the possession of the said premises to the Trust. It was further declared that the Trust is entitled to rent and/or mesne profits for the period from 1992 till 2016, liability of payment of such rent and/or mesne profits was fixed upon the petitioner.

The Trust thereafter got possession of the premises. The concerned Land Acquisition Collector, in terms of the direction passed in the aforesaid matter, assessed the said rent/mesne profit at a rate of Rs. 55, 74, 410/- (Fifty five lakhs seventy four thousand four hundred and ten rupees only) out of which a sum of Rs. 7,78,028/- was apportioned to the petitioner.

The respondent no. 4 has refused to grant the benefit of ROPA, 2019 to the petitioner for non-payment of the said apportioned amount of rent/mesne profits which is wholly unwarranted inasmuch as the Trust is entitled to recover the amount of rent/mesne profits from the petitioner in accordance with law. The respondent no. 4 cannot act as the executing authority of the order of the Land Acquisition Collector assessing the amount of rent/mesne profits.

The order impugned, for the aforesaid reason is not sustainable and is accordingly set aside.

If the pension papers are found in order, the respondent no. 4 is directed to issue the revised Pension Payment Order under ROPA Rules, 2019 to the petitioner within a period of two weeks from the date of communication of this order.

WPA 25781 of 2022 is thus **allowed** without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)