

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

W.P.A. 26170 of 2022

Madhumita Thakur & another
Vs.
Hindustan Petroleum Corporation & another

For the petitioners

Mr. Siddhartha Ruj

For the respondent nos.

1 & 2

Mr. Biswanath Chatterjee

Mr. Sobhan Kr. Pathak

Heard on : 31.03.2023

Judgment on : 31.03.2023

Jay Sengupta, J.

This is an application praying for a direction upon the respondent no.2 to set aside the decision being reference : SLRO/Bolpur dated 10.11.2022.

Earlier, the petitioners had preferred an application being WPA 20833 of 2022 seeking direction upon the respondent authorities to accept and record an alternative land offered by the petitioners and to allow the petitioners to continue with the project of petrol pump in the said land. By an order dated 19.09.2022 passed in the said application, this Court directed the respondent no.2 to consider the petitioners' representations in accordance with law within two months from the date of communication of this order. In pursuance of such order, the respondent no.2 passed the impugned order which is under challenge.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners were granted Letter of Intent by the respondent HPCL in respect of the petrol pump on 20.03.2020. On 22.07.2021, the HPCL wrote a letter to the DM and Collector, Birbhum and issued no objection certificate in respect of the plot of land. It tantamounts to partial condonation of delay. In January, 2022, an application was made for conversion in respect of plot no. 640. Thereafter, an application was made for correction. Conversion certificate was issued thereafter. In May, 2022, the petitioners came to know that the correction would not be allowed. Therefore, they offered an alternative plot. On 28.06.2022, the respondent no.2 issued a letter asking for explanation from the petitioners. The

petitioners gave two replies vide the letters dated 18.08.2022 and the others 26.08.2022. After an intervention of this Court, the respondent authorities replied to the same and passed the impugned order. It is germane to emphasize that the letter of Intent was issued on 20.03.2020. After a total lockdown was declared due to the onset of Covid-19 pandemic, there was only a partial relaxation of such restrictions in the month of September, 2020. Thus, there was a delay in taking adequate steps for converting the land. The alternative land was verbally offered to the respondents in May, 2022. However, after the show cause notice came, by two letters dated 18.08.2022 and 26.08.2022, the petitioners harped on the fact that they were in a possession to offer alternative lands. Besides, the impugned order was not a fully reasoned one as it decided only on the question of delay in offering alternative land.

Learned counsel appearing on behalf of the Oil Company submits as follows. There is no question of verbally offering any alternative land. It is categorically denied that the same was done. The alternative land was offered by the letters dated 18.08.2022 and 26.08.2022, only after a show cause notice was given to the petitioners on 28.06.2022. Even the said alternative land is not in the name of the petitioners. It also appears that an application for change of nature and character of the land was made by the

petitioners as late as on 19.11.2022. The petitioners were fully aware of the requirement that within 90 days of the LOI, an alternative land had to be offered, which was not done. Therefore, there is no merit in the application.

I have heard the submissions of the learned counsels for the parties and perused the writ petition, the affidavits and the written notes of arguments.

Earlier, it had been submitted on behalf of the petitioners that the letter dated 22.07.2021 issued by the Chief Regional Manager, Siliguri was effectively a condonation of delay purportedly by the petitioners till that date. However, from a careful perusal of the letter, it appears that it was simply prayer made by the Oil Company before the Collector and District Magistrate for conversion of the land. However, it was subsequently learnt that the land in question could not be converted. Therefore, this letter cannot be taken as condonation of delay permitted by the petitioners till then.

In any event, the alternative land was offered much later even if one discounts the period of total lock down from the consideration of the period of 90 days.

In view of the above, I do not find any merits in this writ petition.

Accordingly, the same is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)