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27.09.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 26565 of 2022

Lutfar Rahaman
Vs.
Union of India & Ors.

Mr. Anirban Sarkar,
Mr. Mainak Biswas
...for the petitioner

Mr. Indrajeet Dasgupta
...for the U.O.I.

Mr. Anuj Singh,
Mr. Sourajit Dasgupta,
Mr. Siddhartha Roy,
Mr. Aman Agarwal
...for the respondent no. 4

1. At the outset, learned counsel for the respondent no. 4 submits that there was a communication gap and the petitioner has not received the compensation but has refused to do so, despite being offered.
2. Be that as it may, the contention of the petitioner is that the District Magistrate, while dealing with the issue of compensation to be granted to the petitioner for high-tension transmission line having been taken over the petitioner's property by the respondent no. 4,

practically give no opportunity of hearing to the petitioner. It is submitted that no copy of the report of the BL & LRO, which was relied on by the District Magistrate and/or the written submissions of the respondent no. 4 were served on the petitioner, thereby depriving the petitioner from having an effective opportunity of hearing on the issue of compensation.

3. Although learned counsel for the petitioner indicates that the petitioner could not be present at the time of the enquiry done by the BL & LRO for submission of the report, this Court is not inclined to reopen the issue from such stage, since apparently notice of the BL & LRO inspection was served on the petitioner.
4. In any event, a bare perusal of the impugned order of the District Magistrate indicates that the copies of the BL & LRO's report and the written submissions of the respondent no. 4 were not served on the petitioner, nor was the petitioner present on the date of passing the order.
5. Accordingly, for the ends of justice, W.P.A. No. 26565 of 2022 is allowed, thereby setting aside the order dated August 05, 2022 passed by the District Magistrate & Collector at Murshidabad and remanding the matter to the said District

Magistrate for a fresh consideration upon giving opportunity of hearing to both sides.

6. Prior to such hearing, the District Magistrate shall ensure that copies of the written submissions of respondent no. 4 as well as of the report filed by the BL & LRO, on which the District Magistrate intends to rely on, are served on the petitioner well in advance from the date of hearing.
7. That apart, the District Magistrate shall also ensure that copies of whatever documents are sought to be relied on by the District Magistrate are also handed over to the petitioner.
8. By virtue of this order, the pending application for review made by the petitioner with regard to the same order as set aside herein, stands disposed of.
9. Since no affidavits have been called for, it is deemed that none of the allegations made in the writ petition have been admitted by the respondents.
10. It is further clarified that this Court has not entered into the merits of the rival contentions of the parties at all.
11. There will be no order as to costs.

12. 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.