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05.07.2023
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W.P.A. 27228 of 2022
(Sk Mosiar Ali vs. State of West Bengal & Ors.)

Mr. Supriyo Chattopadhyay
Mr. Sudip Kr. Maiti
.... For the Petitioner
Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State
Ms. Rini Bhattacharyya
.... For the DFCCI

Heard learned counsels for the parties.

The order passed by the Competent Authority under Railway Amendment Act, 2008 and Additional District Magistrate(LA), Hooghly on 1st November, 2022 is assailed in the writ petition. It is not in dispute that the land owned by the petitioner was acquired and compensation paid to the petitioner for the same. The petitioner has claimed employment in terms of Section 31(2)(h) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 in lieu of acquisition of the land.

Learned counsel for the petitioner places reliance on the judgment of a Division Bench of this Court passed on 21st June, 2023 in FMA 137 of 2023 in connection with an appeal preferred by the petitioner wherein the Hon'ble Division Bench directed the Collector, Hooghly to assess the entitlement of the appellant/petitioner under Section 31 of the Act of 2013 read with

the second schedule after giving him a short hearing and if found entitled allocate a suitable land for his rehabilitation within eight weeks of that order. Learned counsel submits that since the issue of rehabilitation is pending consideration before the Collector, Hooghly, the petitioner's claim for employment may also be referred to the Collector for consideration.

It is evident from the order impugned passed on 1st November, 2022 that the petitioner's claim under Section 31 of the Act of 2013 was not taken into consideration by the authority in turning down the prayer of the petitioner.

In view of the above, the order impugned passed on 1st November, 2022 is set aside.

The petitioner is at liberty to submit a comprehensive representation claiming his right under Section 31 of the Act of 2013 before the 2nd respondent within seven days from date. The 2nd respondent is directed to consider and dispose of the representation within two months from the date of receipt thereof upon affording reasonable opportunity of hearing to the petitioner, in accordance with law. The petitioner is also at liberty to produce relevant documents in support of his claim before the authority at the time of hearing.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

In the event the authority allows the prayer of the petitioner necessary consequential steps shall be taken within a month thereafter.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)