

29.12.2023
Item No.5
gd/ssd

WPA/29183/2023
GANGADHAR JANA
VS
STATE OF WEST BENGAL AND OTHERS

Mr. Lakshminath Bhattacharya
..for the Petitioner.

Mr. Jayanta Samanta,
Mr. Kushal Biswas
..for the State.

The petitioner has challenged a notice dated December 15, 2023 **annexure P-3 at page 68 to the writ petition** issued by the respondent no.5.

The issue involved in this writ petition had already received the attention of Coordinate Bench on **July 12, 2023 and July 28, 2023 in WPA 839 of 2023**, the previous writ petition. The orders are available **at pages 64 and 67 to the writ petition** by which the said previous writ petition was disposed of. Under the said orders the jurisdictional State Authority was directed to take steps under Section 10 of the **West Bengal Highways Act, 1964** (for short, the **1964 Act**).

The respondent State Authority instead took steps and issued the impugned notice **dated December 15, 2023** as referred to above invoking the provisions of Central Legislation, namely, **The**

Control of National Highways (Land and Traffic) Act, 2002.

The sheer non-application of mind and mechanical approach on the part of the State Authority is glaringly apparent on the face of record. The State Authority was directed to take steps under the said **1964 Act** which is a State Legislation they have taken steps and sought to have invoked the provisions of the **2002 Act** which is a Central Legislation at page 68 to the writ petition.

Therefore, the said notice **dated December 15, 2023 annexure P-3 to the writ petition** which was issued by the State Authority being wholly without jurisdiction stands set aside and quashed.

Consequently, any further step or steps taken thereunder also stands set aside and quashed.

It is, however, made it clear that the State Authority shall carry out the direction of the Coordinate Bench dated July 12, 2023 with the necessary modification being carried out in the order dated July 28, 2023 passed in WPA 839 of 2023 forthwith strictly in accordance with law and positively within a period of three weeks from the date of communication of this order.

This order shall not create any right or equity in favour of the petitioner. However, the petitioner

shall be also at liberty to avail of his remedy, if any, strictly in accordance with law.

With the above observation and direction, the writ petition, **WPA 29183 of 2023** stands **disposed of**, without any order as to costs.

(ANIRUDDHA ROY, J.)