

24.01.2023
Item No.32.
Court No.6.
AB

R. V. W. 150 of 2017
In
M.A.T. 2022 of 2016

Subhas Chandra Das
Vs
The State of West Bengal & Others

Mr. Malay Dhar,
Mr. Amar Nath Sen,
Mr. Pranab Kr. Ghosh,
Mr. Sauvik Naskar ...for the Review Applicant.

Ms. Chaitali Bhattacharya,
Mr. Kartick Chandra Kapas ...for the State.

The review applicant approached the learned Single Judge challenging an order dated April 23, 2015, passed by the District Nodal Officer, SSK & MSK Cell, Bankura. The learned Single Judge set aside the said order holding that the same had been passed without notice to the review applicant, who was the writ petitioner before the learned Single Judge. The Appeal Court reversed the order of the learned Single Judge on merits.

As recorded in the order dated September 2, 2022, passed by a Coordinate Bench, the only question is whether or not the order dated April 23, 2015, was passed by the District Nodal Officer, after serving due notice on the review applicant?

We have heard this application on several dates. Several opportunities were given to the State

Government to demonstrate that the order of the District Nodal Officer was passed after duly notifying the review applicant herein.

Today, copy of a written instruction dated November 30, 2022, addressed to learned Advocate for the State by the concerned Block Development Officer, has been handed up to us. The written instruction is to the following effect:

“We were not able to find any documents that mention Mr. Subhsah Chandra Das receiving the hearing notice. So, we are unable to place any documents that show whether or not the nodal officer passed an order on April 23rd, 2015, which was under challenge before the learned Single Judge in this round of litigation, gave an opportunity of hearing to Subhash Chandra Das, in terms of the order dated February 10, 2014, passed by Hon’ble Justice Tapabrata Chakraborty in W. P. No.3464 (W) of 2010.”

From the aforesaid, it would appear that the review applicant was not given an opportunity of hearing before the District Nodal Officer passed the order dated April 23, 2015. We are of the view that this is a fit case where the order under review should be recalled and we do so. We affirm the order of the learned Single Judge. We direct the concerned Authority, who, we are told, presently is the concerned Sub Divisional Officer, to revisit the issue and take a reasoned decision afresh in the matter, in accordance

with law, after affording an opportunity of hearing to all concerned parties including the review applicant herein, within ten weeks from the date of receipt of a copy of this order.

We make it clear that we have not gone into the merits of the case. Purely on the ground of breach of the principles of natural justice, we are remanding the matter to the concerned Authority for fresh consideration, keeping all points open.

The review application being RVW No.150 of 2017 is, accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Subhendu Samanta, J.)

(Arijit Banerjee, J.)