

February 9, 2024
ARDR (633)

WPA 306 of 2024

Bithalnath Maliah & anr.
Vs.
The State of West Bengal & ors.

Adv. Ramdulal Manna,
Adv. Manju Manna (Dey),
Adv. Sayan Mukherjee,
...for the petitioners.
Adv. Hiranmoy Datta,
...for the respondent no.7.
Adv. Chandi Charan De,
Adv. Sanjib Das,
...for the State.

The order passed by the Additional Secretary to the Government of West Bengal on 23rd November, 2023 is under challenge in the writ petition. By the said order, sanction has been accorded to long term settlement of 1.65 acres of Government vested land in favour of Assembly of God Church School, Raniganj for a period of ninety nine years with effect from the date of possession of the land for the purpose of extension of the school. Clause (iv) of the order indicates that “if it is subsequently found that the subject land is involved in any Court case in any Hon’ble Court of law including WBLRTT, then all concerned shall abide by the orders as may be passed by such Hon’ble Court or WBLRTT.”

It is not in dispute that an application pertaining to the plot in question which was transferred before the WBLRTT by this Court is pending before the Tribunal.

Learned counsel for the petitioners submits that the petitioners shall approach the tribunal for expeditious disposal of the matter. Learned counsel seeks an order of

stay of the order impugned till disposal of the application pending before the tribunal.

Learned counsel for the State respondents have challenged the maintainability of the writ petition on the ground that it pertains to the West Bengal Estates Acquisition Act, 1953.

The writ petition challenges the order impugned which accord sanction to long term settlement of land in favour of the private respondents. The matter in issue in the writ petition does not pertain to the provisions of the 1953 Act and as such, the writ petition is maintainable in its present form and prayer. The issue pertaining to the 1953 Act is pending adjudication before the appropriate forum, being the WBLRTT.

Upon consideration of the submission made by the parties, this Court is inclined to hold that since clause (iv) of the order impugned dated 23rd November, 2023 directs all concerned to abide by the orders as may be passed by the Court or the LRTT, the order impugned is liable to be stayed till disposal of the application by the LRTT.

The writ petition is accordingly disposed of.

The order impugned dated 23rd November, 2023 passed by the Additional Secretary to the Government of West Bengal is stayed till disposal of the application pending before the learned Tribunal.

Learned Tribunal is requested to dispose of the application, being T.A. no. 2169 of 2004 (LRTT) as expeditiously as the business of the Tribunal would permit.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)