

05.04.2024
Item No.22.
Court No.6.
AB

**M.A.T. 209 of 2024
With
CAN 1 of 2024**

**Gopal Maiti & Anr.
Vs
The State of West Bengal & Others**

Mr. Debasish Banerjee,
Mr. Supreem Naskar,
Mr. Rakesh Janafor the Appellants.

Mr. U. K. Bhattacharya,
Mr. Kaustav Mishra,
Mr. Bishal Bhattacharya
....for the Respondent Nos.2 to 5.

Mr. Kanailal Samanta,
Mr. Barun Kr. Samanta
.....for the Respondent No.7.

Mr. Rajarshi Basu,
Mr. S. T. Minafor the State.

Read order dated February 6, 2024.

The only grievance of the appellants was that the Hearing Officer of the Zilla Parishad appointed by the District Magistrate of Purba Medinipur is the Secretary of the Zilla Parishad.

The appellants had approached the learned Single Judge with the grievance that the Secretary of the Zilla Parishad could not be appointed as the Hearing Officer. He is not a retired Government Officer. In any event, being an Officer of the Zilla Parishad, he is unlikely to be unbiased.

The learned Single Judge rejected the contention of the writ petitioners and disposed of the writ petition

by giving certain directions for holding spot inspection and for forwarding the recommendation by the Hearing Officer to the Executive Officer for necessary action.

Being aggrieved, the writ petitioners came up before us. We recorded our prima facie view in our order dated February 6, 2024, to the effect that the grievance of the writ petitioners is not without substance. The Secretary of the Zilla Parishad cannot, acting as Hearing Officer, take a decision regarding alleged unauthorized construction when such construction has been labelled to be unauthorized by the Zilla Parishad itself. Justice must not only be done but must also be seen to be done. The public perception could well be that being an Officer of the Zilla Parishad, the Hearing Officer is inclined to uphold the order of the Zilla Parishad.

We had stayed the operation of the order of the learned Single Judge and we had called for reports from Officers in the Administration as to whether or not, it was feasible to appoint any other suitable candidate as the Hearing Officer.

A report was filed on February 21, 2024. A further report has been filed today signed by the District Magistrate and Collector, Purba Medinipur on 5.3.2024.

Let the report be kept with the records.

We need not discuss the contents of the report filed today since there has been subsequent

development. Copy of a memo dated March 14, 2024, has been handed up to us by learned Advocate for the State wherefrom it appears that one Sri Arup Kumar Mondal has been appointed on re-employment basis as the Hearing Officer in Purba Medinipur Zilla Parishad. We are told that Sri Mondal has no other connection with the Zilla Parishad.

In view of the aforesaid, the grievance of the appellants/writ petitioners stands redressed. The newly appointed Hearing Officer may proceed with whatever complaint is lodged before him in accordance with law.

The order under appeal is set aside. As a result, the notice issued by the earlier Hearing Officer stands set aside also. The newly appointed Hearing Officer may take appropriate steps in the matter in accordance with law.

The appeal and the connected application are disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Arijit Banerjee, J.)

(M. V. Muralidaran, J.)

