

Court No. 24

27.03.2024

(AD 19)

(S. Banerjee)

WPA 3772 of 2024

Sabiul Momin & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Gangadhar Das
Mr. Tanmoy Chattopadhyay
Ms. Munmun Das

... for the petitioners

Mr. Amal Kumar Sen, AGP
Mr. Lal Mohan Basu

... for the State

Exception filed by the petitioners to the report filed by the Block Development Officer, is taken on record.

It appears therefrom that the panel pursuant to which the petitioners were engaged as volunteers of the Vector Borne Disease Control (VBDC) Programme at Amrity Gram Panchayat has been rejected. The said rejection was made by the District Magistrate, Malda in compliance of the direction passed by the Hon'ble Division Bench in FMA 1399 of 2022 with IA No. CAN 1 of 2022 arising out of WPA No. 21432 of 2022 in the matter of Baisakhi Mondal and Ors. –Vs.- State of West Bengal & Ors. The hearing by the District Magistrate continued from January, 2023 till 24th May, 2023 when the matter stood finally disposed of.

The petitioners submit that they ought to have been given an opportunity of hearing by the District Magistrate in terms of the direction passed by the Court on 11th October, 2023. The petitioners contend that there has been violation of principles of natural justice in cancelling the panel without affording any opportunity to the petitioners who were empanelled therein.

The petitioners further contend that they were not aware of the order of cancellation of the panel vide order dated 24th May, 2023 and the petitioners were permitted to continue with the work till 28th February, 2024 but payment has been made only for the period from 1st February, 2023 to 6th July, 2023. The payment for the period from 7th July, 2023 till the rejection order was made known to the petitioners vide report dated 28th February, 2024, is due and payable.

It appears that the legality of the order passed by the District Magistrate, Malda is required to be adjudicated in a proceeding where the order in question is challenged. In the present case, the said order is not challenged as the petitioners were not even aware of the said order. It is only by the report dated 28th February, 2024 that the order of rejection of the panel has come to the knowledge of the petitioners.

In view of the above, it will be open to the petitioners to initiate appropriate proceeding challenging the order passed by the District Magistrate, Malda.

As regards the payment for the period from 7th July, 2023 till 28th February, 2024, the petitioners in their exception claimed that they performed their services in the Panchayat and the Panchayat continuously utilized the service of the petitioners.

The petitioners seek payment for the period from 7th July, 2023 onwards till the date of the report on 28th February, 2024 containing the order passed by the District Magistrate, Malda.

The District Magistrate, Malda is directed to conduct an enquiry and ascertain as to whether the petitioners actually served in the Panchayat and, if it is found that the petitioners served the Panchayat, then payment ought to be disbursed in their favour at the earliest.

The report of the Block Development Officer suggests that the term of engagement of the petitioners expired on 31st March, 2023 but the petitioners were permitted to serve the Panchayat and payment has been released in their favour till 6th July, 2023.

The District Magistrate, Malda shall afford an opportunity of hearing to the petitioners and to the representative of the Gram Panchayat to ascertain the above. A decision shall be taken in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of this order. In the event the petitioners' prayer for payment is rejected then a reasoned order shall be passed and communicated to the petitioners immediately thereafter.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)