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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 4076 of 2024

Shyama Prasad Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Barun Ghosh,
Mr. Rajsekhar Basu
...for the petitioner

Mr. Sk. Md. Galib,
Ms. Ashmita Chakraborty
...for the State of West Bengal

Mr. Arjun Roy Mukherjee
...for the respondent nos. 2 and 3

Mr. Tamal Ghosh,
Ms. Somdyuti Parekh
...for the respondent no. 6

1. Affidavit-of-service filed in Court today be kept on record.
2. The present matter has a checkered history. The petitioner, now around 70 years old, submits that the petitioner has been harassed by the private respondents by running a Grill Manufacturing Unit immediately adjacent to the premises of the petitioner, causing pollution on several counts - noise, odour and otherwise.
3. It is contended that the petitioner has been running from pillar to post for several years, at least from the year 2002, but to no avail.

4. A perusal of the annexures to the writ petition also shows that the petitioner has moved the West Bengal Pollution Control Board, the appellate authority against the said Board and this Court alternatively on several occasions, every time getting an order this way or the other. Lastly, as per the order dated May 16, 2006, which is annexed to the writ petition, the appellate authority observed that the appeal of the petitioner was misconceived because in the appellate authority's previous order it was specified that if it was not complied with by the Unit, the petitioner could have approached the State Pollution Control Board, which would have taken measures in conformity with the instructions of the appellate authority. However, it was also recorded in the same order that the private respondent's Unit had completed the job as per the order of the appellate authority and had obtained all consents.

5. Learned counsel for the private respondents controverts the allegations and submits that whenever there is an iota of misunderstanding between the parties, the petitioner moves Court.

6. Such contention is vehemently opposed by learned counsel for the petitioner.

7. Be that as it may, the petitioner had an order passed by the appellate authority on May 16, 2006. Having waited for 17 years, non-compliance of the

said order cannot be alleged at this belated juncture.

8. Still then, taking into account the advanced years of the petitioner, if the petitioner has a recurring cause of action even thereafter, the petitioner is always entitled to approach the West Bengal Pollution Control Board on such count.

9. In such view of the matter, W.P.A. No. 4076 of 2024 is disposed of by granting the petitioner liberty to approach the respondent no. 2, that is, the West Bengal Pollution Control Board, with the current grievance of the petitioner with regard to the operation of the Grill Manufacturing Unit by the private respondent nos. 5 and 6.

10. If so approached with a complaint in writing, the respondent no. 2 shall hold a joint inspection in the presence of the petitioner as well as the private respondents and upon the report furnished in pursuance of such inspection, shall take a reasoned decision thereon after giving opportunity of hearing to both the petitioner and the private respondents.

11. It is expected that the entire exercise as indicated above shall be concluded within eight weeks from the date of communication of the server copy of this order to the respondent no. 2.

12. Upon such adjudication being made, the respondent no. 2 shall communicate in writing the

outcome thereof by way of a reasoned order both to the petitioner as well as to the private respondents immediately thereafter.

13. In the event either of the parties is aggrieved therewith, it will be open to them to approach the appropriate forum against such decision.

14. There will be no order as to costs.

15. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)