

February 5, 2024
ARDR (28)

WPA 6176 of 2022

Nakul Chandra Barik
Vs.
The State of West Bengal & ors.

Adv. Ayan Banerjee,
Adv. Mohini Mohan Betal,
Adv. Kaustav Ratan Chatterjee,
...for the petitioner.
Adv. Afrojul Haque,
...for the respondent no.4.

Affidavit of service filed by the petitioner is taken on record.

None appears for the State respondents, despite service.

Mr. Chandi Charan De, who usually appears for the State and is present in Court today, is requested to represent the State along with his junior Mr. Anirban Sarkar, Advocate in this matter.

Their appointment be regularised by the office of the learned Legal Remembrancer.

The petitioner is directed to serve copy of the writ petition along with annexures thereto upon Mr. Sarkar, Advocate in course of this day.

The petitioner is aggrieved by the order passed by the Special Land Acquisition Officer, Haldia, Purba Medinipur on 25th January, 2022 which records that by an order passed on 5th August, 2008, the petitioner has been allotted a rehabilitation plot measuring an area of 0.4 decimals jointly with other allottees.

Without going into further details of the case on merits, this Court is inclined to hold that the order impugned dated 25th January, 2022 is bereft of any reasoning and is not a speaking order at all. There is also no reflection in the said order that sufficient opportunity of hearing was granted to the petitioner before the order was passed.

It is the case of the petitioner that after the death of his father who was the erstwhile recorded owner of the plot in question, the petitioner and his two brothers constructed three dwelling units in the plot and have been residing therein separately. Upon acquisition of the said plot, the authority lost sight of the said fact and allotted only 0.04 acres in favour of the petitioner and his brothers jointly though they are occupying three separate dwelling units individually. According to the petitioner, the circular issued by the Deputy Secretary to the Government of West Bengal on 20th April, 1993 has also not been considered by the authority in passing the order impugned.

The petitioner seeks reconsideration of his claim.

In view of the above, the order impugned dated 25th January, 2022 is set aside.

The writ petition is disposed of directing the 3rd respondent to revisit the issue in terms of the circular dated 20th April, 1993 and upon affording reasonable opportunity of hearing to all concerned including the petitioner and pass a reasoned and speaking order within

two months from the date of communication of this order, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

With the aforesaid directions the writ petition is disposed of.

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.)