

August 12, 2024
Sl. No.7
Court No.9
s.biswas

WPA 8404 of 2024

Ramu Saha
vs.
The State of West Bengal and others

Mr. Syed Shamsul Arefin

... for the petitioner

Mr. Kamal Kr. Chattopadhyay

Mr. Sanatan Panja

... for the State

Mr. Raja Saha

Mr. Sanjay Mukherjee

... for the respondent no.4

1. The petitioner is aggrieved by the order passed by the law officer and Joint Registrar, West Bengal Information Commission. It is contended by the petitioner that the queries made by the petitioner before the SPIO, Burdwan Municipality were not answered. Accordingly, a first appeal was preferred, which was also unanswered. Ultimately, the petitioner approached the second appellate authority and the second appellate authority disposed of the appeal without actually answering the questions of the petitioner, but held that the reply given to the petitioner was adequate. The authority was of the view that the grievance of the petitioner with regard to change in the records of the municipality and the cancellation of the mutation which was granted in favour of the petitioner, could not be decided by the second appellate authority.

2. This court does not find any illegality in the order impugned. The records which have been annexed to the writ petition clearly indicate that the petitioner was aggrieved by the action of the Burdwan Municipality in not granting sanction, in not approving the site plan and in cancelling the mutation which was granted in the petitioner's name.
3. It is the contention of the petitioner that the municipality was required to furnish the information. Thus, the petitioner first filed an application before the SPIO/Chairman of the Burdwan Municipality with queries. The queries were whether a) data base had been maintained containing the holding numbers corresponding to the name of the assessee; b) why the property tax receipt for the year 2022-23 showed the name of the petitioner as also the name of Dhriti Prakash Nandey as assessee? c) Whether Dhriti Prakash Nandey was the father of Subrata Prakash Nandey; d) Whether Burdwan Municipality personally knew Dhriti Prakash Nandey who had expired in 2006; e) Whether any other person was using the name of Dhriti Prakash Nandey claiming to be an assessee in connection with Holding No.112, Ward No.15 of Mohalla Choto

Balidanga; f) Whether any proceeding had been initiated by Dhriti Prakash Nandey, etc.

4. It appears from the records that the municipal authority found that the land purchased by the petitioner by three different deeds from three different owners, was less than the actual area which the petitioner claimed to be his own. Explanation was also called for from the petitioner who claimed that his vendors had proper deeds, covering the entire area which the petitioner was claiming to be his own. The petitioner was asked to submit those deeds, but the petitioner failed to comply with such direction. Thus, the authority did not find any basis for recording the name of the petitioner in respect of the entire area. Accordingly, the petitioner was asked to furnish certain clarifications in support of his prayer within seven days, failing which the mutation done in his favour was liable for cancellation.
5. As the writ petition suffers from insufficiency of documents, this court is not in a position to ascertain whether the mutation in favour of the petitioner was cancelled as a whole or in respect of any portion. The petitioner's representation dated October 31, 2019 talks about such dispute and also about the pending suit. It also appears

from the order passed by the second appellate authority that the sister of the petitioner's vendor had filed the title suit.

6. Under such circumstances, the grievance of the petitioner has to be decided by the municipality and the queries as to whether any other person was claiming to be the owner of the land in dispute and was praying for mutation etc. can also be decided by the municipality. The executive officer or the competent authority of Burdwan Municipality, is directed to dispose of the representation of the petitioner dated October 31, 2019. The authority had already passed an order asking the petitioner to produce documents in support of his claim. The authorities specifically reserved the right to cancel the mutation granted in favour of the petitioner, if the petitioner failed to produce documents.
7. Thus, the action complained of, which resulted in the filing of applications under the Right to Information Act, can be resolved by directing the competent authority of the municipality, to pass a reasoned order upon hearing the petitioner and all the heirs of Dhriti Prakash Nandey as also such other persons who may have objected to the mutation or may have approached the municipality for cancellation of the mutation

granted in favour of the petitioner. All parties shall furnish documents in support of their claims. The order shall be communicated to all concerned.

8. Accordingly, the writ petition stands disposed of.
9. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)