

14.06.2024
Sl. No.8
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9998 of 2024

Biswajit Das
Vs.
The State of West Bengal & Ors.

Mr. Debashis Banerjee,
Mr. Rakesh Jana

....for the petitioner.

Mr. Susovan Sengupta,
Mr. Sanatan Panja

....for the State.

Affidavit of service filed in Court today is taken on record.

The petitioner says that in lieu of a plot of land being acquired for setting a pump house under Hatgacha-II Gram Panchayat, Uluberia, District – Howrah popularly known as Netaji Subhas Pump House, the petitioner was promised a job. Subsequently, the petitioner was engaged as a Pump Operator as a daily rated worker between 13th November, 2008 and 29th January, 2010. The petitioner was receiving Rs.180/- per day. Subsequently, the petitioner demanded minimum wage at the rate the other contractual pump operators in the State were paid. After several representations, the petitioner had approached this Court by filing a writ petition, being WPA 19128 of

2017. This writ petition was disposed of by an order dated 10th April, 2023 by directing the Executive Engineer, Howrah Division to consider the petitioner's representation dated 12th June, 2017 and dispose of the same by a reasoned order. The petitioner's representation has been considered by the Executive Engineer, Howrah Division, Public Health Engineering (in short, PHE) Directorate and has been disposed of in the following manner:

“1. There is no directly any provision in the PHE Directorate for the engagement of petitioner as pump operator in any scheme.

2. As the petitioner is still working at the Netaji Mini Piped Water Supply Scheme as a pump operator as enclosed by the Prodhan Hatgacha Panchayet and the scheme is still under control of Uluberia (I) Panchayet Samity, the liabilities if any, of the petitioner is vested with the Uluberia (I) P. S.”

Since it has been clearly stated in the said order that the Netaji Mini Piped Water Supply Scheme is under the control of Uluberia (I) Panchayat Samity and the said Panchayat is liable to pay the remuneration of the petitioner, who is still working as a Pump Operator thereat (as on 22.08.2023), the Executive Engineer, Howrah Division, PHE Directorate has not decided the issue referred to him by the order dated 10th April, 2023.

The petitioner's grievance, therefor, remains unresolved. The same is required to be brought to a logical conclusion.

On behalf of the State a report is filed, which is taken on record. Relying upon the report, it is submitted that PHE Directorate had never operated the pump house or had engaged the petitioner as a Pump Operator therein. The project was all along under the concerned Gram Panchayat. Liability to pay was that of the Gram Panchayat.

On behalf of the State an order dated 29th February, 2024 passed in WPA 20977 of 2023 (Arif Mohammad & Anr. Vs. The State of West Bengal & Ors.) has been referred to submit that the petitioner has been engaged by an agency and not by any government department, as a consequence whereof the writ petition is not maintainable.

After hearing the parties and considering the materials on record, I find that the petitioner had been engaged as a Pump Operator in Netaji Mini Piped Water Supply Scheme. The setting up of the said pump house and the water supply scheme is that by the State. It may be controlled either by the Gram Panchayat or by the PHE Directorate, but it continues to remain as a project by the Government. It is not in dispute that the land of the petitioner was

not acquired for setting up of the pump house. It is also not in dispute that the petitioner worked as a Pump Operator at the said project for at least some period of time. It is, however, not clear from the facts stated in the writ petition as to whether the petitioner was engaged through any agency or by the Gram Panchayat or by the PHE Directorate and by whom and from what fund the petitioner was paid.

The fact remains that there was an order directing the petitioner's representation to consider by the Executive Engineer, Howrah Division, PHE Directorate. The fact remains that the said Executive Engineer has not decided the same on the ground that the project is not that of PHE.

Without going into the issue as to whether the said Executive Engineer on having been directed by this Court to decide an issue could have bypassed the same stating that the project is not that of PHE.

The Block Development Officer, Uluberia-I Development Block, being the respondent no.5 herein is directed to consider and dispose of the issues raised by the petitioner by treating this writ petition to be his representation by a reasoned order within a period of 8 weeks from date.

Since the order is passed in the presence of the learned advocate representing the respondent no.5,

no further communication is necessary for inviting him to dispose of the petitioner's representation.

The respondent no.5 shall decide all issues including the nature of engagement of the petitioner and the source of fund wherefrom payments had been made to the petitioner by giving a personal hearing to the petitioner. The respondent no.5, if necessary, may also call the persons necessary from the department for adjudicating the issues.

It is made clear that I have not gone into any of the issues and the respondent no.5 shall be free to decide all issues independently without being influenced by any observation made in this order. The respondent no.5 shall, upon passing the reasoned order, immediately communicate the same to the petitioner.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)