

D/L. 12 & 13.
January 3, 2024.
MNS.

WPA No. 11177 of 2023
with
WPA No. 11181 of 2023

Brindavan Construction
Vs.
The State of West Bengal and others

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder,
Ms. Neha Singh

... for the petitioner.

Mr. Anirban Ray,
Mr. Tanoy Chakraborty,
Ms. Arpita Mondal Adak

...for the State in
WPA No. 11177 of 2023.

Mr. Debnarayan Banerjee,
Md. Ahsanuzzaman

...for the State in
WPA No. 11181 of 2023.

1. Affidavit-in-reply filed today be kept on record.
2. The petitioner claims that the petitioner mistakenly deposited an amount of Rs.1,40,000/- at one instance and Rs.2,00,000/- in another instance as mutation fees. However, ultimately the mutation was refused by the respondent authorities, but the amounts wrongly deposited by the petitioner was never refunded. The petitioner applied

for refund of the said amounts but to no effect, for which the present writ petitions have been preferred.

3. Learned counsel appearing for the respondent authorities places reliance on a Circular dated February 2, 2017 annexed at page 30 of the affidavit-in-opposition used in WPA No. 11177 of 2023, which applies to both the said cases.
4. It is argued that the respondent authorities charged processing fees for mutation in terms of the area of the property shown by the petitioner itself in its applications for mutation.
5. It is further argued that the petitioner participated twice in hearings regarding mutation but never raised the objection as now raised by way of the present writ petitions.
6. The last point argued by the respondent authorities cannot be accepted, since participation of the petitioner in a hearing regarding mutation cannot be germane with regard to the present claim of refund of excess payment of mutation fees upon mutation being refused.
7. However, a perusal of the applications of the petitioner for mutation in several instances vis-

à-vis the approved rate of processing fees for mutation of land within the Municipal area under the KMDA indicates that for area exceeding ten decimals, as in the present case, the rate of processing fees is Rs.10,000/- per decimal in terms of the Circular dated February 2, 2017, bearing No. 398-LP/5M-33/15.

8. Thus, even if the mutation was ultimately refused upon giving hearing to the petitioner on grounds of mismatch of the area, the respondent authorities were justified in retaining the amount paid by the petitioner by way of processing fees in terms of the rates as per the said Circular of 2017.
9. Thus, I do not find any scope of interference or direction on the respondent authorities to refund such amount to the petitioner.
10. The charging of processing fees is irrespective of the ultimate refusal to mutate on the ground of mismatch, since the processing fees were utilized duly by the respondent authorities in holding field enquiry and undertaking other formalities as mandated by Statute.

11. Accordingly, WPA No. 11177 of 2023 and WPA No. 11181 of 2023 are dismissed without any order as to costs.

12. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)