

S/L 20
08.07.2024
Court. No. 551
Suvayan

WPA 10098 of 2011

**Sri Bhabani Prasad Das & Ors.
Vs.
The State of West Bengal & Ors.**

*Mr. Amar Nath Sen
Mr. Malay Dhar
Mr. Amit Bikram Mahata*

...for the petitioners.

Mr. Ashok Kumar Jena

...for the respondent No. 2.

*Mr. S. M. Hassan
Ms. Anupama Yasmin*

...for the Haldia Municipality.

1. The affidavit-of-service and the affidavit-in-reply as filed by the learned Advocate for the petitioners be taken on record.
2. The writ petitioners before this Court are aggrieved for non-allotting any rehabilitation plot by the respondent No. 2 authority though the respondent No. 4, that is, the Chairman, Rehabilitation Advisory Committee, Haldia in a proceeding of the meeting held on 05.08.2008 recommended for allotment of a land by way of rehabilitation by the respondent No. 2 authority with an intimation to the respondent No. 3 being the District Magistrate, Purba Medinipore.
3. It is the case of the writ petitioners that for the purpose of development of Haldia Dock complex, the District Magistrate, Purba Medinipore acquired a plot of land of the predecessor-in-interest of the present writ petitioners being plot No. 55 having area of 10 decimals in Khatian No. 17, Mouza – Pararchak, P.S. Sutahata,

District – Purba Medinipore. On account of such acquisition land looser certificate was issued in favour of the writ petitioners and thereafter L.A. Case No. 11/78-79 was started.

4. It is the further case of the writ petitioners that on 02.08.1995 the writ petitioners and/or their predecessor-in-interest filed an application before the Chairman, Haldia notified area for rehabilitation of a plot of land on account of such acquisition which was, however, not considered and thereafter in an earlier round of litigation, a co-ordinate Bench of this Court directed the District Magistrate, Purba Medinipore to consider and dispose of the representation of the writ petitioners.

5. While considering such representation the then District Magistrate, Purba Medinipore vide its order dated 10.04.2008 forwarded the application/representation of the writ petitioners to the Chairman, Rehabilitation Advisory Committee who after considering the same passed the following order:

“The Committee heard & considered the matter of writ petitioners Sri Parijat Das & others as per Order of the Hon’ble High Court, Calcutta passed in W.P. No. 2417(W) of 2004 and the Order of the Collector, Purba Medinipur dated 10.04.2008. The writ petitioners appeared personally, after receiving proper notice. Considering the matter, the Committee decided that as the writ petitioners were eligible to get a rehab plot being the legal heirs of Lt. Bholanath Das, who was an evictee in Mouza –

Pariyarchak (L.A. Case No. 91/68-69) as per norms. Therefore C.P.T. as R. B. will take necessary steps accordingly with an intimation to the Collector, Purba Medinipur within a week. Chairman, RAC and the writ petitioners in compliance with Hon'ble High Court's Order."

6. Drawing attention to Annexure R2 at page No. 13 of the affidavit-in-opposition it is submitted on behalf of the writ petitioners that by issuing a letter dated September 4, 2008 the respondent No. 2 authority did not act in terms of the advice of the Rehabilitation Advisory Committee and on the contrary a flimsy ground was taken for not allotting the land in question for rehabilitation of the writ petitioners.

7. Learned Advocate for the writ petitioners thus submits that an appropriate writ of mandamus be issued upon the respondent No. 2 authority, that is, the Board of Trusts, Calcutta Port Trust now known as 'Board of Trustees for Shyama Prasad Mukherjee Port, Kolkata' for allotment a suitable land in view of the recommendation of the rehabilitation authority dated 05.08.2008.

8. *Per contra*, learned Advocate appearing on behalf of the respondent No. 2 authority at the very outset submits before this Court that the respondent 2 authority noticed a mismatch of L.A. case number which is evident from Annexure P5 where the L.A. case number has been mentioned as 11/78-79 whereas in the recommendation of the Rehabilitation Advisory Committee it has been

mentioned as L.A. Case No. 91/68-69. It is thus submitted that due to such mismatch the respondent No. 2 authority had correctly found that the names of the present writ petitioners and/or their predecessor-in-interest were not appearing in the approved list of evictees.

9. On perusal of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties it reveals that admittedly there lies a mismatch with regard to the actual L.A. case number in view of the fact that in the writ petition itself (at page No. 7 of the writ petition) it has been mentioned as L.A. Case No. 11/78-79 and the same L.A. case number has also been provided in the letter dated 22.12.2003 as written by the petitioners (Annexure P5 to the writ petition) whereas in the recommendation dated 05.08.2008 the Rehabilitation Advisory Committee has mentioned the L.A. Case No. 91/68-69.

10. Since it is nobodies case that the land as referred to above has been acquired by the District Magistrate, Purba Medinipore on behalf of the requiring body, that is, the respondent No. 2 herein, this Court while disposing the instant writ petition directs the District Magistrate, Purba Medinipore as well as Additional District Magistrate (L.R.), Purba Medinipore to provide the correct the L.R. case number in respect of acquisition of Plot No. 55, Khatian No. 17, Area 10 decimals at Mouza – Pararchak, P.S. Sutahata, District – Purba Medinipore belonging to the writ petitioners and/or their predecessor-in-interest

within a period of fortnight to the Rehabilitation Advisory Committee, Haldia as well as to the respondent No. 2, authority, that Board of Trusts, Calcutta Port Trust now known as 'Board of Trustees for Shyama Prasad Mukherjee Port, Kolkata'.

11. Upon receipt of the actual L.A. case number in respect of the aforesaid plot of land the Rehabilitation Advisory Committee, Haldia is once again directed to consider the instant writ petition as a representation of the writ petitioners and thereafter shall make appropriate recommendation within a period of one month from the receipt of such actual L.A. case number after giving an opportunity of hearing either to the writ petitioners or to their learned Advocate and thereafter shall come to a logical conclusion of the same positively within a fortnight from the conclusion of hearing and shall communicate the decision to the writ petitioners, to the District Magistrate, Purba Medinipore as well as to the respondent No. 2, Board of Trusts, Calcutta Port Trust now known as 'Board of Trustees for Shyama Prasad Mukherjee Port, Kolkata' under speed post.

12. It is made clear that the time limit framed by this Court is to be followed by all the authorities mandatorily.

13. With aforesaid observation the instant writ petition being WPA 10098 of 2011 along with all interim applications, if there be any, stands hereby disposed of.

14. All parties including the respondent No. 2, that is the Board of Trusts, Calcutta Port Trust now known as 'Board of Trustees for Shyama Prasad Mukherjee Port,

Kolkata', the District Magistrate, Purba Medinipore as well as the Additional District Magistrate (L.A), Purba Medinipore are directed to act on the server copy of this order duly downloaded from the official website of this Court.

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

(Partha Sarathi Sen, J.)