

07.03.2024
Item No.06
RP
Ct. No.1

**WPA 16985 of 2019
With
IA No.CAN 1 of 2021**

**Asit Saha
Vs.
The State of West Bengal & Ors.**

Mr. Mukul Lahiri, Sr. Adv.
Mr. Durga Prasad Dutta
Mr. Souvik Sen
Mr. Sumanta Ganguly
..... for Petitioner
Mr. Pinaki Dhole
Mr. Rabindra Kumar Pathak
Mr. Md. Ziaur Rehman
.....for applicant in CAN 1 of 2021
Mr. Jahar Lal De
Mr. Shamim ul Bari
.....for State

- 1) By way of filing this public interest litigation the petitioner seeks for implementation of the notice dated 20th June, 2019 issued by the District Magistrate, Malda & Competent Authority under Section 17A of the West Bengal Inland Fisheries (Amendment) Act, 1993 (hereinafter referred to as the said "Act". The allegation made by the petitioner is that certain persons, who have been named in the said notice/order, have illegally filled up a water body and by the said notice they are directed to restore the same.
- 2) The learned advocate appearing for the applicant in CAN 1 of 2021 wherein prayer has been made for impleading the applicants as respondents no.9 to 14

in this public interest litigation petition submitted that the proper procedure under the said Act was followed and an order has been passed in favour of the applicants in CAN 1 of 2021. Therefore, the notice issued under Section 17A of the said Act is illegal. It is further submitted that the applicants in CAN 1 of 2021 have filed an independent writ petition, being WPA 16344 of 2021, before this Court challenging the correctness of the order/notice dated 20th June, 2019 and the said writ petition is pending and not taken up for hearing on account of pendency of the public interest litigation.

- 3) Considering the fact that an order under Section 17A of the said Act is stated to have been passed in favour of the applicants in CAN 1 of 2021 and those applicants filed an independent writ petition, being WPA 16344 of 2021, questioning the correctness of the notice issued Under Section 17A of the said Act it is appropriate that the said writ petition is to be heard and decision is to be rendered on merits of the case. Furthermore, we note that the petitioner was represented in WPA 16344 of 2021 through his counsel when the writ petition was heard on 30th March, 2023. Therefore, all contentions raised by the petitioner in this public interest litigation are left open and he is at liberty to raise such contentions in WPA 16344 of 2021.

- 4) With the aforesaid directions, this writ petition and the connected application are disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)