

27.06.2024
Ct. No. 2
Sl. No. 195
tbsr

WPA 18013 of 2023

**Abdul Rezzak Shekh
Vs.**

The State of West Bengal & Ors.

Mr. Swahar Jahan
Mr. Aditya Bikram Mahata
Mr. Amit Bikram Mahata
....for the petitioner

Mr. Santanu Mitra
Ms. Rama Haldar
....for the State

Ms. Sohini Samanta
....for the private respondent no. 11

Mr. Tapash Kr. Mondal
.....for the respondent nos. 5 to 7

Affidavit of service is already on record.

Mr. Swahar Jahan, learned counsel appears for the petitioner.

Ms. Rama Haldar, learned State counsel appears for respondent nos. 1 to 4, 8 and 10.

Mr. Tapas Kumar Mondal, learned counsel appears for respondent nos. 5 to 7.

Ms. Sohini Samanta, learned counsel appears for learned advocate led by Mr. Surojit Samanta, learned counsel appears for private respondent no. 11.

The petitioner claims that during the period **April 1, 2017** and **March 31, 2018** the petitioner was operating as provisional dakhaldar on the basis of

leave and license of Pathankali College to Hogaldubi Ferry Ghat (for short 'the ferry ghat'). On **February 27, 2017**, the confirmation of possession was granted in favour of the petitioner at **page 30** to the writ petition. The petitioner on **October 23, 2017** received an intimation that a meeting was to be held for implementation of 'Jaladhara Scheme'. The meeting was held on **October 25, 2017**. The tenure of the petitioner had expired on **March 31, 2018**.

The petitioner then discovered the private respondent no. 11 sought to take possession of the said ferry ghat and the petitioner lodged a police complaint on **April 14, 2018 at page 17** to the writ petition and then on **March 27, 2023 at page 19** to the writ petition, the petitioner submitted a representation before the Sabhadhipati of the concerned Zilla Parishad and subsequently, thereafter the petitioner made repeated representations and complaints before the concerned Zilla Parishad and diverse State authorities. The petitioner received a communication dated **June 13, 2023 at page 35** to the writ petition from the office of the respondent no. 6 intimating that there was no further lease or extension granted to the petitioner in respect of the said ferry ghat on and from April 1, 2017 and the lease has expired on March 31, 2018. The petitioner was

granted an opportunity to submit the supportive documents in support of his claim.

Mr. Swahar Jahan, learned counsel appearing for the petitioner submits that, though assurance was given to the petitioner for extension and/or renewal of the lease after March 31, 2018 but the Zilla Parishad had failed to keep its commitment and did not grant such extension of lease neither granted any fresh lease. He further submits that, the petitioner has come to learn that without following any tender process, the Zilla Parishad is proceeding for granting lease of the subject ferry gaht. This is not permitted in law.

Mr. Tapash Kumar Mondal, learned counsel appearing for respondent nos. 5 to 7 submits that, after the necessary certificate being issued by the respondent no. 9 under the Jaladhara Prokalppa, the Zilla Parishad had granted lease in respect of such ferry ghat in favour of the private respondent no. 11.

Mr. Santanu Mitra, learned State counsel appearing for respondent nos. 1 to 4, 8 and 10 adopts the submissions made on behalf of the Zilla Parishad.

After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court, admittedly the lease granted to the petitioner stood expired on March 31, 2018. There

was no contemporaneous complaint made by the petitioner nor any such case is made out in the writ petition that petitioner had any grievance with regard to running of the said ferry ghat prior to the expiry of his lease. The petitioner, for the first time, on April 14, 2018, admittedly after expiry of the lease, lodged the police complaint, as stated above and thereafter on March 27, 2023 made the representation before the Zilla Parishad.

From the case pleaded in the writ petition and the reliefs claim therein, it further appears to this Court that, the petitioner has not raised any grievance that the said ferry ghat is sought to be leased out without following any tendered process, it is the submission made by the learned counsel from the bar.

The moment the lease has come to an end, the jural relationship between the lessor and lessee, that is, between the Zilla Parishad and the petitioner seized and came to an end. To renew or not to renew the lease or to grant or not to grant a fresh lease, is the discretion of the lessor unless otherwise specifically promised in the covenant between the parties. No such covenant is made available on records. The petitioner, therefore, after expiry of the lease cannot claim any benefit or right arising out of such expired lease in any manner.

In as much, as had there been any cause of the petitioner alleging breach of contract on the part of the Zilla Parishad, this constitutional remedy could not be invoked and the remedy of the petitioner would be in damages, though no such case has also made out in this writ petition.

In as much as after expiry of the lease on March 31, 2018, the petitioner lodged a police complaint on April 14, 2018 and thereafter made the representation on March 27, 2023, which are after the expiry of the lease and even after around 5 years of expiry of the lease. The law is well settled that delay defeats equity. This constitutional Court in exercise of its jurisdiction under Article 226 of the Constitution of India also exercises an equitable jurisdiction. So, the petitioner also cannot claim any equitable relief.

In view of the foregoing discussions and reasons, this Court is of the firm view that this writ petition is totally devoid of any merit.

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

Resultantly, this writ petition, **WPA 18013 of 2023** stands **dismissed**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)