

12.7.2024
ct.35, sl. 17
sk

WPA 17782 of 2018

With

CAN 1 of 2024

With

CAN 2 of 2024

Krishna Kamal Goswami & Anr.--vs-State of West Bengal & Ors.

Mr. Dibyendu Chatterjee
Mr. Pritam Majumdar
Mr. Rahul Das Goenka
Mr. Mainak Singha Barma
Ms. Satabdi Das
.....for the petitioners.

Mr. Debabrata Roy
Mr. Prabir Majumder
Mr. Soumik Mondal
Ms. Sangeeta Chakraborty
.....for the private respondents

Affidavit-in-opposition filed on behalf of the private respondent is taken on record.

In re: CAN 1 of 2024 and CAN 2 of 2024.

The applications as above are filed, to seek recall and modification of this Court's earlier order dated February 7, 2024.

The present application is due to the facts as stated below:-

The Executive Engineer, Nadia Highway Division No. 2, Public Works(Road) Directorate, City Center Building, Kalyani has been directed by the order of this court dated February 7, 2024 to decide with regard to the representation of the writ petitioners submitted before it i.e. dated July 9, 2018, within a stipulated period of time.

Learned advocate appearing for the recalling applicants submits that the copy of the order was sent to the concerned respondent authority within due time.

The said authority has replied by dint of a letter dated February 7, 2024.

The relevant portion thereof with regard to which this recalling application arises, is as follows:-

“The jurisdiction of the aforesaid location presently under Project Director-II, West Bengal Highway Development Corporation Limited, HRBC Bhawan, 4th & 5th Floor, Munhi Premchand Sarani, Kolkatta-700021”.

Learned advocate for the recalling applicants submits that the order of the Court as above be recalled and modified only to the extent that the Project Director-II, West Bengal Highway Development Corporation Limited, HRBC Bhawan, 4th & 5th Floor, Munhi Premchand Sarani, Kolkatta-700021 be directed to take appropriate steps with respect to the representation of the recalling applicants/petitioners, as mentioned above, instead of the office, as was directed that way, in the order dated February 7, 2024.

On behalf of the private respondent, there is a serious objection, raised by the learned advocate Mr. Roy. The respondent has also filed affidavit-in-opposition to the said application being CAN 1 of 2024.

On behalf of the said respondent it is submitted that the concerned authority upon whom the applicant has now sought for a direction, to decide and take steps, as per this prayer, has not earlier been made a party in the writ petition. Therefore, according to the said respondent, any direction upon the Project Director-II, West Bengal Highway Development Corporation Limited, HRBC Bhawan, 4th & 5th Floor, Munhi Premchand Sarani, Kolkatta-700021, as above, would be irregular since he has not been cited as party in the writ petition. It has been submitted further that, an appeal has been preferred on behalf of the private respondent before the Hon'ble Division Bench of this Court as against the order dated February 7, 2024 in Writ Petition No. WPA 17782 of 2018. During pendency of the same, it is urged that, no modification of the impugned order be made.

Considering prayer of the writ petitioners/applicants, it appears that the same is only formal in nature. Not impleading the same, would not be fatal in nature, for the writ petition to be maintainable.

It is further learnt that till date the Hon'ble Division Bench of this Court has not directed for stay of any proceeding with respect to the present case.

Therefore, this Court is of the opinion that there would not be impediment for issuing a direction as is sought for by the applicant/writ petitioner.

It is therefore, directed that let the order of this Court dated February 7, 2024 be recalled and modified to the extent that the Project Director-II, West Bengal Highway Development Corporation Limited, HRBC Bhawan, 4th & 5th Floor, Munhi Premchand Sarani, Kolkatta-700021 be directed to decide upon the representation of the writ petitioners, dated July 9, 2018.

Excepting the modification as above, other findings and directions of the said order, shall remain as it is.

The application being CAN 1 of 2024 is disposed of.

The application being CAN 2 of 2024 is disposed of, as not pressed.

(Rai Chattopadhyay, J.)