

D/L.8.
March 13, 2024.
MNS.

WPA No. 28757 of 2022

Ashok Kumar Shaw
Vs.
The Union of India and others

Mr. Rafikul Islam Sardar

... for the petitioner.

Mr. Siddhartha Lahiri,
Mr. Ashok Halder

...for the respondent nos. 1 and 2.

Mr. Aritra Basu,
Mr. Ankit Dey

...for the respondent no. 3.

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel for the petitioner contends that the petitioner suffered due to crack and damage, which was fatal for the petitioner's shop.
3. It is submitted that the said damage was due to the laches on the part of the Metro Railway authorities. The accident, according to the petitioner, occurred on October 14, 2022, upon which the petitioner requested for compensation. The petitioner's name also featured in a list of the persons to whom compensation was payable, according to the petitioner. However, till date no action has

been taken by the Metro Railway authorities for payment of compensation to the petitioner, despite the petitioner having given representation in that regard.

4. Learned counsel appearing for the Managing Director, Kolkata Metro Rail Corporation, that is, the respondent no. 3, controverts all the allegations made in the writ petition.
5. It is submitted that there are several discrepancies in the case of the petitioner. First, although the date of the occurrence has been mentioned as October 14, 2022, it is evident from Annexure P1 at page 9 of the writ petition that the New Certificate of Enlistment was issued in respect of the said shop only on October 18, 2022, barely four days after the occurrence. Hence, a doubt is raised as to whether the petitioner at all had a shop on the relevant date.
6. Moreover, it is pointed out that there are certain blank spaces left, importantly regarding the incident-in-question, in a Declaration for Business purportedly given by the petitioner and annexed at page 12 of the writ petition.
7. That apart, it is argued that the purported list of intended recipients of compensation is a hand written list, without containing anything

to indicate that the same was authored or acknowledged by any competent Officer of the Metro Railway authorities.

8. It is argued that in view of such palpable discrepancies, the petitioner may not be entitled to compensation.

9. Upon hearing learned counsel, it transpires that it is beyond the charter of the writ court to decide the disputed questions of fact regarding the petitioner's entitlement and, if so, quantum of compensation.

10. In the present case, in view of the nature of the allegations, whatever authority grants compensation has to go into a scrutiny of the documents produced by the petitioner and all relevant materials. However, such exercise shall also be premature since no consideration has been given by the Metro Railway authorities as yet, as the petitioner's claim is also suspect in the perception of the Kolkata Metro Rail authorities.

11. Be that as it may, the purpose of justice would be sub-served if the respondent no. 3 or his designated officer gives an opportunity of hearing to the petitioner.

12. Accordingly, 28757 of 2022 is disposed of by directing the respondent no. 3 to ensure that an opportunity of hearing and production of

documents is given to the petitioner within a fortnight from date, either by the respondent no. 3 himself or by his designated officer, for the purpose of ascertaining the petitioner's claim of compensation for the fateful event which took place on October 14, 2022.

13. It is made clear that this order shall not create any special equity in favour of the petitioner since this Court has not entered into the merits of the petitioner's claim at all even at the threshold.

14. It is upon the respondent no. 3 to ensure that an opportunity of hearing and of production of documents is given to the petitioner for the purpose of ascertaining the claim of the petitioner.

15. After such exercise is completed, preferably within a month after giving opportunity of hearing and production of documents to the petitioner, the respondent no. 3 shall decide on the petitioner's claim and the outcome of such consideration shall be communicated to the petitioner in writing.

16. In the event the respondent no. 3 comes to a conclusion that the petitioner is entitled to compensation, it is expected that such compensation shall be disbursed to the petitioner at the earliest thereafter.

17. There will be no order as to costs.

18. 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.)