

23.12.2024
Ct. No. 2
Sl. No. 4
Moumita

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

WPA 29227 of 2024

**Sri Biswajit Mondal
Vs
The State of West Bengal and Ors.**

**Mr. Anshunath Chakraborty
Mr. Gourab Mukhopadhyay
.....for the petitioners**

**Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Ms. Suchana Banerjee,
Mr. Priyabrata Batabyal
....For the State/Respondent nos. 1 to 5 and 7.**

Affidavits-of-service, filed in court today, are taken on record.

Mr. Anshunath Chakraborty, learned advocate appears for petitioner.

Mr. Priyabrata Batabyal, learned State counsel led by Mr. Soumitra Bandyopadhyay, learned State counsel appears for the respondent nos. 1 to 5 and 7.

The rest of the respondents are not represented.

Through this writ petition the petitioner has challenged impugned order no. 4 dated **October 28, 2024 at page 55** to the writ petition passed by the respondent no. 4. This is the second round of writ litigation. Pursuant to an order passed by this court dated **August 2, 2024 at page 48** to the writ petition in the previous writ petition **WPA 19071 of 2024** the impugned order has been passed.

Referring to a document dated **November 22, 2023 annexure P-5 at page 41** to the writ petition issued by the Pradhan of the concerned Gram Panchayat, learned counsel for the petitioner submits that the Panchayat has issued a communication to effect that the plot which is under the possession of the petitioner if ultimately leased out or a patta granted in favour of the petitioner, the panchayat would not have any objection.

Referring to another communication dated **June 10, 2024 annexure P-8 at page 45** to the writ petition. Learned counsel for the petitioner submits that the respondent no. 4 issued a communication in favour of the **Public Health Engineering Department** that since the subject plot on which petitioner claims to be in possession is chosen for a public purpose called **Jal Jeevan Mission Project** and alternative lands being available at the nearest to the subject land, the project can be shifted there.

Learned counsel for the petitioner further submits that the finding in the impugned order that the petitioner is a public servant as a civic volunteer is not eligible for patta is bad-in-law and not tenable in the eye-of-law. The further finding that there is no provisions to give long term settlement for agricultural purpose under **Rule 20-A (6) of West Bengal Land**

Reforms Manual, 1965 is also bad-in-law and not tenable in law as the same rule is not applicable in the facts of this case.

Learned State counsel, per contra, submits that this is a public project which cannot be stopped or shifted anywhere as the subject plot after consideration of all the necessary factors has been chosen by the state for construction of the said public project including its geographical situation.

The learned state counsel further submits that the order passed under the **West Bengal Land Reforms Act 1955** is appealable under **Section 54 of 1955 Act** hence, this writ petition is not maintainable.

After considering the rival contentions of the parties and upon perusal the materials on record, this court is of the firm view that, the petitioner has not come up with his constructive right, title or interest on the subject plot of land. On the basis of the document **annexure P-5 at page 41** to the writ petition, as discussed above, no right is created in favour of the petitioner over and in respect of the subject land.

The records of right **annexure P-3 at page 38** to the writ petition which is a subsequent document after vesting of land cannot create any right or title on land. In so far as, a public project is under progress and the construction is being carried out for public purpose. To

locate the land for construction of subject project, the experts have chosen the same after considering various factors including the geographical situation of the land upon which this court cannot and should not exercise its supervision and intervention.

Since the basic cause in the writ petition, according to this court, is against the public policy and public purpose, this constitutional court thinks it fit that, in exercise of its power under **Article 226** of the Constitution of India, this writ petition is not required to be sent before this statutory appellate authority. Hence, this court proceeds to consider this writ petition finally.

A civic volunteer in a police force is a contractual employee and is not at all a state employee and not in the regular roll of state employment. Therefore, the finding to that effect in the impugned order stands set aside.

Even if the provisions quoted in the impugned order **Rule 20-A (6) of the Land Reforms Manual, 1965** is not applicable in the facts of this case then also in view of the finding of this court, as recorded above, this writ petition shall not succeed.

In view of the forgoing reasons and discussions this writ petition **WPA 29227 of 2024** stands **dismissed**, without any order as to costs.

This order shall not preclude the state authority to consider any application, if submitted by the petitioner, for settlement of any other alternative land strictly in accordance with law, but without creating any right or equity in favour of the petitioner.

(Aniruddha Roy, J.)