

23.09.2024
Ct. No. 2
Sl. No. 12 & 13
tbsr

**WPA 28175 of 2023
With
WPA 556 of 2024
IA NO: CAN 1 of 2024**

**Sk. Samsuddin
Vs.
The State of West Bengal & Ors.**

Mr. Rabiul Islam
Mr. Raju Mondal
Mr. M. Rahman
....for the petitioner in WPA 28175 of 2023

Mr. Ashim Kr. Ganguly
Sk. Md. Masud
....for the State in WPA 28175 of 2023

Mr. Kamalesh Bhattacharya
Mr. Robiul Islam
Mr. Raju Mondal
Mr. M. Rahman
....for the petitioner in WPA 556 of 2024

Mr. Somnath Ganguly
Ms. Kalpita Paul
....for the State in WPA 556 of 2024

Mr. Subhasis Bhattacharya
Mr. Sanjay Saha
....for the respondent no. 3 in WPA 28175 of
2023 & WPA 556 of 2024

In Re: WPA 28175 of 2023

Mr. Rabiul Islam, learned counsel appearing for the petitioner submits that no further cause survives in this writ petition, hence this writ petition has become infructuous.

Mr. Ashim Kumar Ganguly, learned Additional Government Pleader with Sk. Md. Masud appears for the State respondents.

Mr. Subhasis Bhattacharya led by Mr. Sanjay Saha, learned counsel appears for respondent no. 3.

The respondent no. 3 files a report in the form of affidavit affirmed on May 15, 2024, the same is taken on record.

In view of the above, this writ petition, **WPA 28175 of 2023** stands **dismissed** as **infractuous**.

In Re : WPA 556 of 2024

Mr. Kamallesh Bhattacharya, learned counsel appears for the petitioner.

Mr. Somnath Ganguly, learned Additional Government Pleader appears for the State respondents.

The petitioner claims that he has applied for permission for extraction for his own alleged Raiyati land. The land was acquired for consideration by the respondent no. 3. Hearing was held on **November 9, 2023, Annexure P-6 at page 26** to the writ petition when the petitioner participated. Further hearing was fixed on December 12, 2023 when the petitioner by way of sending an e-mail requested for some time and the adjournment of the hearing to enable him to produce the necessary records and papers before the

respondent no. 3. Such prayer for adjournment was rejected and the issue was decided *ex parte* in absence of the petitioner. The petitioner could not furnish the relevant papers and documents before the said order dated December 12, 2023 was passed by the respondent no. 3 rejecting the claim of the petitioner.

The said order dated December 12, 2023 is impugned in this writ petition.

Mr. Sanjay Saha, learned counsel appearing for the respondent no. 3 submits that the respondent no. 3 is duty bound to act in terms of the report submitted by the District authority on the availability land in terms of the Raiyati policy of the land.

Per contra, Mr. Bhattacharya, learned counsel for the petitioner submits that there has been proper recommendation in favour of the writ petitioner by the District authority in terms of the Raiyati policy decision.

After considering the rival contentions of the parties and upon perusal of the materials on record at the outset, this Court expresses its view that when a valuable right of a party is required to be decided, it is implied that an adequate and meaningful opportunity of hearing shall be granted to such party.

Since an adjournment was prayed for by the petitioner in respect of hearing fixed on December 12,

2023, the same ought to have been granted by the respondent no. 3 for a reasonable period of time to enable the petitioner to produce all the relevant land records before it.

In the premises, the said impugned order dated **December 12, 2023** stands **set aside** and **quashed**.

The respondent no. 3 is directed upon issuing a prior hearing notice of at least **seven days** to the petitioner shall hear out the issue and decide the same after granting the petitioner an opportunity of hearing and by passing a reasoned order in accordance with law. The hearing shall commence immediately from what had happened on November 9, 2023, as would be evident from the order sheet.

The petitioner shall disclose all its relevant documents and papers positively within a period of **two weeks** from date.

The respondent no. 3 then shall carry out and complete the entire exercise, as directed herein, positively within a period of **six weeks** from the date of receiving the documents and records from the petitioner and shall pass its reasoned order. The reasoned order shall be communicated to the petitioner positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claims and rival claims of the parties recorded above, the petitioner and the Authority shall be at liberty to urge and place whatever points, records and documents before the respondent no. 3 during the hearing.

It is made clear that, this order shall not create any right or equity in favour of either of the parties, if they do not succeed to their respective claims strictly in accordance with law.

The report in the form of affidavit filed on behalf of the respondent nos. 4 and 5 and the exception thereto, filed by the petitioner today which is taken on record have been taken into consideration by this Court.

With the above observations and directions, this writ petition, **WPA 556 of 2024** along with connected application being **CAN 1 of 2024** stand **disposed of**, 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.)