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09.01.2024
Ct. No.1
Sws.m

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

**MAT 2 of 2024
with
CAN 1 of 2024
with
CAN 2 of 2024**

The Superintendent of Police Darjeeling and Anr.
Vs.
Noman Rai & Ors.

Mr. Joyjit Choudhury, Ld. AAG
Mr. Subir Kumar Saha
Ms. Rima Sarkar

....for the Appellants

Heard Mr. Joyjit Choudhury, learned
Additional Advocate General assisted by Mr. Subir
Kumar Saha, Ld. Additional Government Pleader
and Ms. Rima Sarkar, learned counsel for the
State/appellants.

Affidavit-of-service dated 08.01.2024 has been
filed by the learned counsel for the appellants is
taken on record.

The respondent/writ petitioner had preferred
WPA 2843 of 2023 (Noman Rai vs. State of W.B. &
Ors.) praying for permission of a meeting in Bijan
Bari Bazar, Darjeeling. In that writ petition a letter
of the Officer-in-Charge, Pulbazar Police Station,
Darjeeling was produced, which has been quoted in

the impugned judgment and order dated 08.12.2023 passed by the learned Single Judge. Taking note that the said letter is undated, the learned Single Judge directed for a departmental enquiry against the Officer-in-Charge of Pulbazar Police Station, Darjeeling and further directed that unless the enquiry is completed, the said Officer-in-Charge shall not perform the duty in the said police station. Aggrieved with this portion of the judgment and order dated 08.12.2023 passed by the learned Single Judge in WPA 2843 of 2023, the State-appellants has filed the present appeal.

Learned Additional Advocate General submits that the learned Single Judge has travelled beyond the pleadings and relief sought by the petitioner. He further submits that the order of departmental enquiry or ousting the Officer-in-Charge, Pulbazar Police Station, Darjeeling to perform duties at the Pulbazar Police Station was neither the issue involved in the writ petition nor such an order could have been passed without any opportunity or requiring the affected party to put their case.

We have carefully considered the submission of learned Additional Advocate General and perused the records of the case.

We find that the grievance of the appellants herein is only in regard to the following observation

made in the impugned judgment and order dated 08.12.2023 :-

“Therefore, I direct a departmental enquiry against the Officer-in-charge of Pulbazar Police Station, Darjeeling and unless the enquiry is completed, the said Officer-in-charge cannot perform the duty in the said police station but he may perform the duty elsewhere.”

We find force in the submission of learned Additional Advocate General. Neither the respondent/writ petitioner has sought the relief nor there was any pleading nor the affected parties were afforded any opportunity before issuing the aforequoted direction given in the impugned judgment. Since the order travels beyond the pleadings and the relief sought in the writ petition and it was passed without affording any opportunity of hearing to the affected party, therefore, to the extent of the aforequoted observations, the judgment and order is set aside. The rest portion of the impugned judgment shall remain unaffected/undisturbed.

Accordingly, the appeal is partly allowed. All pending applications stands disposed of.

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)