

21.02.2024
BD/Ct. 02
sl no. 04.

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Constitutional Writ Jurisdiction**

W.P.A. 220 of 2024

Dipak Debnath & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Bikramaditya Ghosh
Ms. Supriya Singh
Mr. Rajan Raj

....for the petitioners.

Mr. Momenur Rahaman
Mr. Pradip Sarkar

....for the State.
and respondent nos. 5,6,7

Affidavit of service filed on behalf of the
petitioners is taken on record.

Petitioners grievance is not allotting
spaces in a market which is under the control of
Siliguri Regulated Market Committee.

The learned advocate representing the
petitioners submits that a process was initiated
for allotment of space in favour of willing
persons in the market and both the petitioners
were offered spaces vide Memo dated 27th
February, 2009 on payment of Rs. 1,00,000/-.

It has also been submitted that similarly
circumstanced other candidates were allotted

spaces in the same market but due to non payment of Rs. 1,00,000/- by each of the petitioners shop space was not allotted to the petitioners, now petitioners are in a position to make payment of Rs. 1,00,000/- subject to allotment of space, if made by the Siliguri Regulated Market Committee in favour of the petitioners. Petitioners pray for consideration of their prayer for allotment of space if the space is available at present.

Siliguri Regulated Market Committee being the respondent nos. 5,6 and 7 and the State respondents are represented by learned advocates who have opposed the prayer of the petitioners on the ground of delay since according to them proposal to allot space was made on 27th February, 2009 and in the meantime 15 years have passed. According to the Market Committee if, contemporaneously payment was made by the petitioners for allotment of space necessary arrangements could have been made in favour of the petitioners.

It is true that there is delay so far as the petitioners are concerned in approaching this Court with the present writ petition.

It is also enunciated by the Apex Court that there is no specific time limit in approaching the writ court but ordinarily it should be within three years provided there is accrual of third party interest. In the present case it emanates from the submission of the learned advocates representing the parties that it is possible still shop spaces are available for allotment in the market in question. If shop space is available then Court finds there is no impediment in considering the prayer of the petitioners for allotment on paying requisite sum and upon compliance of formalities and at the same time it can also be concluded that there might not be accrual of third party interest which may give an opportunity so far as the petitioners are concerned to get their prayers allowed.

In view of aforesaid conspectus this Court grants leave to the petitioners to prefer a composite representation to the Secretary, Siliguri Regulated Market Committee being the

respondent no. 7 within ten days from date and on receipt of such representation if, made by the petitioners the respondent no. 7 shall take a decision within four weeks thereafter by passing a reasoned order. Before taking such decision the respondent no. 7 shall grant opportunity of hearing to the petitioners or their representatives. The decision to be taken by the respondent no. 7 shall be communicated to the petitioners within one week thereafter.

With the aforesaid direction the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)