

WPO/551/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

INDUS INSTITUTE OF INFORMATION MANAGEMENT AND ANR
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date: 19TH JUNE, 2024.

Appearance:

Mr. B.R. Bhattacharyya, Sr. Adv.; Mr. B. Bhattacharyya, Adv.; Mr. P. Majumdar, Adv.; Mr. S. Dey, Adv., for petitioners.

Mr. A. Banerjee, Sr. Adv.; Mr. S.M. Galib, Adv.; Mr. A.S. Mallik, Adv., for State.
Mr. S. Sen, Sr. Adv.; Mr. N. Bhattacharjee, Adv.; Mr. S. Bandopadhyay, Adv.; Ms. P. Kundu, Adv.; Mr. A. Chaturvedi, Adv.; Mr. P. Acharjee, Adv.; Mr. A. Sanghi, Adv., for respondents nos.3&4.

1. The Court: The supplementary affidavit filed in court is taken on record.
2. The petitioners are aggrieved by an order dated June 7, 2024, passed by the authorized officer under section 4(1) of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962.
3. The brief facts of the case are that the land in question belongs to the Calcutta Tramways Corporation (now known as WBTC) on long term lease from the Calcutta Improvement Trust (CIT). The land, with the permission of the CIT, was sub-leased to the department of Youth Services of the Government of West Bengal for a period of three years from August 1, 2000.
4. The petitioners were conducting programmes for training youth and other persons, primarily employees of the State. Upon expiry of the lease in the year 2003, a notice of termination was issued by the WBTC. The petitioners continued in occupation and did so until June 13, 2024.
5. WBTC launched the proceedings in the year 2024 to evict the petitioners in accordance with the provisions of the Act of 1962. The proceedings before the authorized officer were concluded and an

order of eviction was passed against the petitioners on June 7, 2024 directing them to surrender vacant and peaceful possession of the property to WBTC within 7 days.

6. The principal ground for challenge urged by Mr. Bikash Ranjan Bhattacharyya, learned Senior Advocate appearing for the petitioners, is that possession of the property was directed to be surrendered within seven days of June 7, 2024. According to Mr. Bhattacharyya this is ex facie illegal since section 7 of the Act of 1962 permits the occupier to prefer an appeal against the order of the authorized officer before an appellate authority within fifteen days of the order. The writ petition has been filed on June 13, 2024.
7. Mr. Samrat Sen and Mr. Amitesh Banerjee, learned Senior Advocates appearing for WBTC and the State respectively, would argue that the petitioners were unauthorized occupants since 2003 and they have been enjoying the property to the detriment and loss of the transport corporation since. It is further submitted that instead of filing the instant writ petition, the petitioners could have easily preferred an appeal if they were serious enough with their remedies under the Act of 1962.
8. Having heard counsel for the parties this Court notes that while it is true that the petitioners ought to have invoked the provisions under the Act of 1962 by this time, one cannot brush aside the illegality in the order dated June 7, 2024 passed by the authorized officer under section 4(1) of the Act of 1962. A direction for surrendering the premises within 7 days would negate and render infructuous any right of appeal that the occupiers have to prefer the appeal within 15 days after the order of the authorized officer. In view of the ex facie illegality in the impugned order, this court is inclined to interfere with the same.
9. The Manicktolla P.S. has already executed the impugned order and the WBTC has put its padlock in place of the padlock of the writ petitioners.
10. The facts and circumstances of the case as narrated above warrant a writ of mandamus directing restoration of status quo ante as it existed on June 7, 2024. The Officer in Charge of Manicktolla P.S.

shall remove the padlock of WBTC forthwith in course of the day and restore possession to the writ petitioners to enable them to use the premises subject to the following conditions:-

- (a) The premises shall be used exclusively by only the petitioners and no third party rights will be created. The property shall not be alienated or encumbered. The nature and character of the property shall not be changed. Possession of the property shall not be parted with.
 - (b) The petitioners may file an appeal under section 7 of the Act of 1962 by June 24, 2024 and serve notice thereof on WBTC and the other respondents before the first court. The respondents shall file objection thereto by 1st July, 2024.
 - (c) The appeal shall be disposed of by the Appellate Authority within 16th July, 2024.
 - (d) Both parties shall be heard through their legal representatives by the appellate authority.
 - (e) The appellate authority shall pronounce its decision on or before 23rd July 2024.
 - (f) In default of compliance of condition (a) above, WBTC shall be entitled to possession of the property and be entitled to put their padlock thereon.
11. It is made clear that this court has not gone into the merits of the rival claims advanced by the parties in respect of the said premises. The appellate authority shall be free to decide the matter on its own merits uninfluenced by any observation made hereinabove.
 12. Since no affidavits have been called for from the respondents, the allegations contained in the writ petition shall not be deemed to have been admitted by them.
 13. With the aforesaid directions, the writ petition stands disposed of.

(RAJASEKHAR MANTHA, J.)