

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APO/132/2023
WITH
WPO/2439/2022

SUKHENDU SINGH AND ORS.
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

The Hon'ble JUSTICE UDAY KUMAR

Date : 18TH April, 2024.

Mr. Amit Kumar Pan, Adv.
Mr. Mahendra Prasad Gupta, Adv.
Mr. Syed Julfiquer Ali, Adv.
Ms. Bishalaxmi Ghosh, Adv.
...for the Appellant.

Ms. Ipsita Banerjee, Adv.
... for the State.

Mr. Debabrata Saha Roy, Adv.
Mr. Pingal Bhattacharyya, Adv.
Mr. Subhankar Das, Adv.
Mr. N. Basu, Adv.
...for the private respondents.

The Court :- We have heard the learned Counsel for the parties.

It is unfortunate that the tender process which was initiated in December, 2010 has not been completed in respect of three tea gardens. Initially, the process of tender came up for consideration before a co-ordinate Bench vide order dated 19th July, 2011(Mat No. 676 of 2011 & CAN No. 4871 of 2011) in which one of us (Soumen Sen, J.) was a party. The said appeal was disposed of with the following directions:-

“Accordingly, it appears to us that since it is submitted on behalf of the State that 219 proposed tenderers have already deposited their tenders and further 174 applicants out of 291 have

already been selected in the process of choosing such tenderers, we only direct the State authorities to proceed with the matter. They shall have the power to ask for the particulars of bank's statement from the said proposed tenderers as well as the particulars of the godown which they intend to use, if selected, in the process for the said purpose. With this modification we do not think that we would interfere with the said judgment in any manner whatsoever. We further make it clear that since the Notification has been issued and process has already been started in the matter in question and since it is in the exigency of the Public Distribution System at the Tea Estate and in the public interest, we do not intend to interfere with the order passed by the Learned Single Judge save and except the notice should be issued by the State authorities in the "Uttarbanga Sambad" with regard to tender in question requiring furnishing of said particulars in respect of the said conditions norms as we have stated earlier.

We further make it clear that pursuant to the notice, if issued within a period of 3 weeks from date, if any person applies in the matter in question and since tender has not yet been finalized and if any interested persons are eager to apply in the process, chances should be granted to them without disturbing the rights of the persons, who have already applied. Since we have modified the order of the Learned Single Judge, the existing applicants also can furnish the bank statements with regard to proof of their financial solvency as well as the size of the godown in question.

The Notification, which has been issued, is modified to this extent and the State shall be at liberty to act on the said Notification.

The appeal is disposed of on the above terms.

Since the appeal is disposed of, the connected application for stay (being CAN 4871 of 2011) has become infructuous and the same is disposed of on the above terms.

Registrar General is directed to communicate this order to the respondent nos. 2 and 3.”

The sub-Divisional Controller of the Food and Supplies Department has filed an affidavit in which he has inter alia stated that the selection process is pending and the applications of the appellants as well as the added respondents are still under consideration.

We dispose of this appeal by directing the authority concerned to strictly follow the eligibility of the applicants in terms of our order dated 19th July, 2011. In the event, it is found that the appellant or the added respondents have not applied within the initial period or the extended period in terms of the order dated 19th July, 2011, their applications should not be considered. The authorities are directed to conclude the proceeding within a period of 8 weeks from the date of communication of this order.

The order of the learned Single Judge stands modified to the aforesaid extent.

The appeal stands disposed of with the aforesaid modification.

(SOUMEN SEN, J.)

(UDAY KUMAR, J.)