

26th March, 2025
(D/L No.07)
Ct. No.4
(SKB)

W.P.S.T.42 of 2025

Smt. Mita Duley and another
Versus
State of West Bengal and others

Mr. Tushar Sinha Mahapatra,
Mr. Prabin Rej
....for the petitioners.

Mr. Biswabrata Basu Mallick, Id. AGP,
Mrs. Parna Roy Chowdhury
...for the State.

Mr. Sajal kanti Bhattacharyya
... for the respondent no.5.

1. The affidavit of service is taken on record.
2. The present two petitioners, who are applicants before the State Administrative Tribunal (in short 'Tribunal'), claimed to be the daughters of one late Rampada Duley, ex-Banasromik who died-in-harness. They were claiming the death-cum-retiral benefits of the deceased father. The claim has been allowed based on a legal heir certificate issued by the District Magistrate, Bankura, wherein apart from these two petitioners, the name of one Sandhya Duley has been incorporated alongwith one Sushanta Duley, Rita Duley and Mithu Duley who have been recorded in the legal heir certificate to be wife, son, daughter and daughter respectively.

3. The learned counsel for the applicants/petitioners submits that Sandhya Duley, who has been mentioned as wife in the legal heir certificate, issued by the District Magistrate, Bankura, had earlier filed a petition under Section 125 of the Code of Criminal Procedure claiming maintenance from the father of the present petitioners, while he was alive.
4. A Miscellaneous Case No.39 of 2000 came to be instituted before the court of Chief Judicial Magistrate, Bankura. The same was considered by the CJM, Bankura and was dismissed on 21.08.2001. While dismissing the claim of the Sandhya Duley seeking maintenance for herself and the two offspring, the CJM, Bankura has found that she could not establish relationship of wife with Rampada Duley.
5. The learned counsel for the petitioner, however, submits that when the petitioners were called for being heard before grant of legal heir certificate, they could not produce the judgment of the CJM, Bankura dated 21.08.2001 passed in Misc. Case No.39 of 2000. As a result, the above noted Sandhya Duley and her three offspring have wrongly been included in the legal heir certificate and have, thus, been given the benefit of death-

cum-retiral benefits for the deceased Rampada Duley.

6. The learned counsel for the State, on the other hand, submits that it is the specific stand of the respondents that the District Magistrate, Bankura had granted an opportunity to these petitioners, before issuance of the legal heir certificate. They have not produced the judgment of the CJM, Bankura dated 21.08.2001 (supra). Therefore, there was no occasion for the District Magistrate to take this into consideration.
7. In these circumstances, the District Magistrate, Bankura, has rightly issued the legal heir certificate dated 26.09.2024.
8. Upon considering the rival submissions and going through the records as well as the decision of the Chief Judicial Magistrate, Bankura, copy of which has been enclosed in the present proceedings, we deem it appropriate that the petitioner be given an opportunity to assail the legal heir certificate dated 26.09.2024 before the Collector, Bankura. Reserving the petitioners' liberty to assail the legal heir certificate, we make it clear that whatever has been recorded in this order may not be deemed to be an expression on the merits of the claim of the parties. If the petitioners approach the District

Magistrate, Bankura, by filing their objection to the legal heir certificate seeking cancellation of the same within three weeks from date, we direct the District Magistrate, Bankura to immediately proceed to consider the claim and pass a reasoned and speaking order thereon after giving due opportunity to the interested parties including Sandhya Duley, Susanta Duley, Rita Duley and Mithu Duley.

9. With such liberty, the writ petition is disposed of.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)