

21.04.2025
Item No.11
gd/ssd

MAT/564/2025
PAL REGENCY AND ANR.
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2025

Ms. Sanghamitra Nandy
..for the Appellants.

1. This intra court appeal at the instance of the writ petitioners is directed against the final order dated 27th March, 2025 in WPA 27139 of 2024.

2. The appellants filed the writ petition praying for releasing of a sum of Rs.19,87,936/- together with security deposit and interest upon setting aside the order dated 21.10.2024 passed by the Secretary, Urban Development and Municipal Affairs Department.

3. The learned advocate appearing for the appellants would contend that the learned writ court ought to have allowed the writ petition as prayed for and issued a positive direction to effect payment without remanding the matter to the Secretary.

4. The first issue that would arise when a money claim was brought before the court, in a petition filed under Article 226 of the Constitution is whether the same can be adjudicated in a writ petition and whether a positive direction can be issued.

5. Very often courts have taken a view that when disputed questions of facts are involved, the court should seldom exercise power under Article 226 of the Constitution and issued positive directions for settling money claims.

6. However, in the instant case on carefully going through the impugned order, we find that the learned Single Bench has appreciated the factual position and has recorded a finding that the original work order/letter dated 6.3.2017 further evinces that the tender for the work mentioned therein has been accepted by the Special Engineer SLRDC and it further appears in the documents annexed at pages 25 and 26 of the writ petition that the same authority has granted post facto approval to the additional work.

7. Therefore, the learned Single Bench was of the view that it would be unjust to punish the writ petitioners by not paying them their dues for doing additional work on the ground that the same were done without obtaining approval.

8. There are other observations and findings which wholly enure in favour of the appellant/writ petitioners.

9. With these findings the matter has been remanded back and in paragraph 17 the following directions has been issued:

“17. In such view of the matter, the said order dated 21.10.2024 impugned in the writ petition is hereby set aside. The matter is remitted back to the said Secretary for taking a fresh decision in the matter as regards the entitlement of the petitioners on the score of the additional work rendered by the petitioners as well as the issue of release of security deposit. Since this Court has observed that the petitioners are not at fault for non grant of prior approval (in the wake of the fact that post facto approval had been granted by the Special Engineer SLRDC upon the recommendation of the Executive Engineer), the Secretary who passed the impugned reasoned order shall not annul the petitioners’ claim on that ground.”

10. With the above observations and findings, the writ petition has been disposed of fixing a time frame for complying with the direction. We find that the order and direction issued by the learned Single Bench was perfectly justified considering the facts and circumstances and does not call for any interference.

11. Accordingly, the appeal fails and the same is dismissed.

12. The respondents are directed to scrupulously comply with the direction issued by the learned Single Bench.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)