

Item No.26  
02.04.2025  
Court. No. 236  
GB

W.P.A. 11072 of 2024

Sk. Mosiar Ali  
Vs.  
The State of West Bengal & Ors.

*Mr. Supriyo Chattopadhyay,  
Mr. Sudip Kumar Maiti,  
Ms. Debosri Chatterjee*

*...for the Petitioner.*

*Mr. Sirsanya Bandopadhyay, Ld. Sr. Standion Counsel,  
Mr. Pritam Basu*

*...for the State.*

*Mr. Anirban Datta*

*...for the Respondent No.5.*

1. This Court has heard Mr. Chattopadhyay, learned advocate for the writ petitioner, Mr. Datta, learned advocate for the respondent no.5/authority and Mr. Basu, learned advocate for the State at length and in full.
2. Challenge in the instant writ petition is the order no.3 dated February 23, 2024 as passed by the District Magistrate, Hooghly at Chinsurah whereby and whereunder the said District Magistrate found that the writ petitioner is not entitled to get benefit under the provisions of Section 31 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'said Act of 2013').
3. It is pertinent to mention herein that such order has been passed by the District Magistrate, Hooghly pursuant to an order and judgment dated June 21,

2023 as passed by a Hon'ble Division Bench of this Court while disposing FMA 137 of 2023.

4. In course of hearing Mr. Chattopadhyay, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos.71 and 72 of the instant writ petition being a server copy of the order dated June 21, 2023 as passed by the Division Bench of this Court in FMA 137 of 2023. It is submitted by Mr. Chattopadhyay that while disposing FMA 137 of 2023 the said Division Bench directed the Collector, Hooghly to assess the entitlement of the present writ petitioner under Section 31 of the said Act of 2013 after giving a short hearing.
5. It is submitted by Mr. Chattopadhyay that the District Magistrate, Hooghly while passing the order under challenge dated February 23, 2024 has misconstrued the true meaning and purport of the word 'short hearing' as mentioned in the said order dated June 21, 2023 and thus without giving any opportunity of hearing as well as to counter and/or controvert the versions of the respondent no.5/authority herein the said order has been passed unilaterally causing much prejudice to the writ petitioner.
6. In course of hearing Mr. Chattopadhyay took me to page no.210 of the instant writ petition being a copy of the order dated November 30, 2023 as passed by the District Magistrate, Hooghly. It is submitted that

though on the said day, that is, on November 30, 2023 the District Magistrate heard the writ petitioner and the respondent no.5/authority herein but on the said day the said District Magistrate asked the respondent no.5/authority herein to submit its written statement/submission in connection with the said proceeding under Section 31 of the said Act of 2013. It is submitted by Mr. Chattopadhyay that all on a sudden the said District Magistrate took up the said matter on February 23, 2024 and most unilaterally passed the order under challenge.

7. It is submitted by Mr. Chattopadhyay that on perusal of said order dated February 23, 2024 it would reveal that while coming to the conclusion with regard to disentitlement of the writ petitioner, the said District Magistrate had relied upon the written statement/submission along with annexed documents thereto as submitted by the respondent no.5/authority but the District Magistrate has failed to consider that the copy of such written statement/submission along with documents annexed thereto were never supplied to the writ petitioner prior to the passing of the order under challenge and thus, the writ petitioner was deprived of the opportunity to make his submission with regard to the pleadings of the respondent no.5/authority as well as with regard to the documents as relied upon by the respondent no.5/authority in such written statement/submission.

8. It is, thus, submitted by Mr. Chattopadhyay that for not giving any opportunity to counter and/or controvert the said documents as relied upon by the respondent no.5/authority, a serious miscarriage of justice has occurred and thus, the writ petitioner is entitled to the reliefs as prayed for in the instant writ petition.
9. Per contra, Mr. Datta learned advocate appearing on behalf of the respondent no.5/authority at the very outset draws attention of this Court to page no.59 of the instant writ petition being a copy of the certificate for enlistment of business/trade for the year 2004-05 in the name of the writ petitioner as issued by the relevant gram panchayat. It is submitted by Mr. Datta that before the District Magistrate the writ petitioner has measurably failed to produce any document subsequent thereto to establish that on or immediately before the initiation of the acquisition proceeding the writ petitioner was carrying on business on the relevant plot of land and thus, the District Magistrate is perfectly justified in reaching conclusion regarding the writ petitioner's disentitlement either for an employment or for an alternative land.
10. It is further submitted that the said District Magistrate rightly passed the order under challenge after a short hearing as directed by the Division Bench of this Court in FMA 137 of 2023. It is further submitted on behalf

of the respondent no.5/authority that no miscarriage of justice occurred in view of the fact that the respondent no.5/authority has also not served with the copy of the written statement/submission as filed by the writ petitioner before the District Magistrate. It is submitted further by Mr. Datta that in absence of any specific pleading with regard to prejudice, this Court should not exercise its plenary jurisdiction under Article 226 of the Constitution of India.

11. It is further submitted on behalf of the respondent no.5/authority that the writ petitioner is also not entitled for an equitable remedy since as per direction of the Division Bench the writ petitioner had not vacated the land under his occupation.
12. Mr. Basu, learned advocate for the State while accepting the contention of Mr. Datta contended before this Court that the District Magistrate while passing the order dated February 23, 2024 has duly complied with the order of the Division Bench of this Court after giving due opportunity of hearing and therefore, by no stretch of imagination it can be said that the writ petitioner has suffered any prejudice. It is further submitted by Mr. Basu that no case has been made out on behalf of the writ petitioner for violation of principle of natural justice.
13. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this

Court that the District Magistrate, Hooghly took up hearing of the aforementioned matter pursuant to the judgment and order dated June 21, 2023 as passed in FMA 137 of 2023.

14. On careful consideration of the order dated November 30, 2023 (at page no.210 of the writ petition) it reveals that on the said day the District Magistrate had heard the submissions of the writ petitioner and the representative of the respondent no.5/authority herein. On the said day the said District Magistrate had verified the documents of the writ petitioner and thereafter permitted the respondent no.5/authority to submit written statement/submission at the earliest.
15. As rightly pointed out by Mr. Chattopadhyay that thereafter the District Magistrate fixed no date of hearing and all on a sudden on February 23, 2024 the said District Magistrate passed the said order which is under challenge before this Court.
16. This Court has meticulously gone through the order dated February 23, 2024 as passed by the District Magistrate, Hooghly. It reveals to this Court that the District Magistrate has gone through the written statements/submissions as submitted by the writ petitioner as well as by the respondent no.5/authority herein. There is no finding in the said order that either the writ petitioner has received the copy of the said written statement/submission as filed by the respondent no.5/authority or the respondent

no.5/authority has received the copy of the written statement/submission of the writ petitioner herein.

17. It further appears to this Court that while arriving at a logical conclusion in connection with the entitlement of the writ petitioner of his employment and/or alternative land, the District Magistrate very much relied upon the documents and the submissions of the respondent no.5/authority herein. It, thus, appears to this Court that when the District Magistrate relied upon the written submissions as well as the documents as submitted by the contending parties, the District Magistrate, Hooghly prior to passing of the reasoned order ought to be given a chance of hearing both to the writ petitioner as well as to the respondent no.5/authority in order to enable them to argue as to why the documents relied upon by the parties ought to be relied upon and/or ought not to be relied upon.
18. It, thus, appears to this Court that for not giving any opportunity of making their respective submissions in respect of the written statement/submission along with connected relevant documents, a serious miscarriage of justice occurred while passing the order under challenge. It further appears to this Court that though the Division Bench of this Court directed the District Magistrate, Hooghly to come to a logical conclusion with regard to the entitlement of the writ petitioner after a short hearing, the said Division

Bench did not ask the District Magistrate not to follow the principle of natural justice as well as the established procedure of law for conducting a *quasi judicial* proceeding.

19. This Court thus considers that the order dated February 23, 2024 as passed by District Magistrate, Hooghly is perverse and not sustainable in the eye of law.

20. As a result, the instant writ petition succeeds.

21. Consequently, the order dated February 23, 2024 as passed by the District Magistrate, Hooghly is hereby set aside.

22. Before parting with, this Court directs the District Magistrate, Hooghly to take up hearing of the self-same matter afresh from the stage, that is, immediately after the order passed by him on November 30, 2024. It is further directed that the writ petitioner and the representative of the respondent no.5 shall appear before the District Magistrate, Hooghly positively on April 21, 2025 at 2 p.m. and in presence of the District Magistrate the writ petitioner and the authorized representative of the respondent no.5/authority shall exchange copies of their respective written statements/submissions along with all supporting documents, if not exchanged in the meantime.

23. The District Magistrate, Hooghly shall thereafter in presence of the writ petitioner and the authorized

representative of the respondent no.5/authority shall fix a date of hearing in the month of April 2025 and after giving due opportunity of hearing both to the writ petitioner as well as to the representative of the respondent no.5/authority with regard to the alleged entitlement of the writ petitioner with regard to the entitlement as well as with regard to the alternative land and thereafter shall pass a reasoned order positively within the last date of May 2025 and shall forthwith communicate such reasoned order both to the writ petitioner as well as to the respondent no.5/authority preferably through email if the email details of the writ petitioner and the respondent no.5 are provided to him at the time of hearing.

24. The time limit as fixed by this Court is mandatory and peremptory.
25. The District Magistrate, Hooghly is directed to act on the server copy of this order.
26. Liberty is given to the learned advocate for the writ petitioner to communicate a server copy of this order to the District Magistrate, Hooghly forthwith. Similar liberty is given to the learned advocate for the respondent no.5/authority as well as to the learned advocate for the State to communicate the server copy of this order to the District Magistrate, Hooghly.
27. It is made clear that while passing the proposed reasoned order, the District Magistrate shall have to

adhere to the order dated June 21, 2023 as passed in  
FMA 137 of 2023 by a Division Bench of this Court.

28. With the aforementioned observations the instant writ  
petition is disposed of.

29. Urgent Photostat certified copy of this order, if  
applied for, be given to the parties upon compliance of  
all necessary formalities.

**(Partha Sarathi Sen, J.)**