

11.02.2025
Item No.9
gd/ssd

FMA/177/2023
STATE OF WEST BENGAL AND ORS.
VS
GURUPADA KHATUA AND ORS.
IA NO: CAN/1/2021, CAN/2/2024

Mr. Sk. Md. Galib,
Ms. Subhra Nag
..for the Appellants.

Mr. Biswarup Biswas,
Mr. Nirmalendu Bera,
Mr. Gora Chand Samanta
..for the Respondents.

1. This intra court appeal by the State is directed against the order dated 19th July, 2021 in CPAN 347 of 2020 in WPA 74 of 2020, CAN 1 of 2020 (Old CAN 3450 of 2020) and CAN 2 of 2021.

2. We have elaborately heard the learned Government counsel appearing for the appellants and the learned advocate appearing for the respondents.

3. The main issue has to be considered in the instant case is whether the learned writ court could have expanded the scope of the matter and issued direction in a contempt petition having accepted that the appellants/State have not violated the order passed by the learned Single Bench. In fact, an application was filed in CAN 2 of 2021 to modify the order passed by the learned Single Bench dated February 11, 2020. In the said order and direction was given to the second

appellant to immediately take steps for disbursal of the requisite amount to implement the scheme under the Gitanjali Housing Scheme in respect of the writ petitioners and other persons similarly placed. The second appellant was further directed to take steps to ensure that such amount reaches the concerned Zilla Parishad latest by two months. The fourth appellant was directed to implement the scheme in respect of the writ petitioner at the earliest after receiving such amount from the end of the third appellant. This application filed by the State in CAN 2 of 2021 was allowed and the earlier direction was set aside and the order was modified. The question while doing so the court could have issued directions which were beyond the scope of the writ petition. The answer to this question should be a definite “no”. The direction issued by the court is to float a fresh scheme which is not the prayer sought for in the writ petition nor a writ court could have issued a direction to the State to frame a scheme when admittedly pursuant to the earlier orders passed by the Division Bench each of the writ petitioners and similarly placed persons have been paid a sum of Rs.75,000/-.

4. Therefore, we find that the order and direction issued upon the appellants/State was far beyond the relief sought for in the writ petition and could not have

been passed in the contempt petition considering the facts and circumstances of the case.

5. Accordingly, the appeal stands allowed and the order and direction issued by the learned Single Bench is set aside. The fact that the original writ petitioners have received Rs.75,000/- each has not been disputed by the writ petitioners and the same is placed on record.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)