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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 13423 of 2023

Md. Meraj Anwar
Vs.
The State of West Bengal & Ors.

Mr. Uday Narayan Betal
...for the petitioner

Ms. Sutapa Sanyal
Mr. Debrup Bhattacharya
Mr. Pradeep Kumar Tulsiyan
...for the respondent nos. 2 & 3

Mr. Tapan Kumar Mukherjee
Mr. Somnath Naskar
...for the State

The grievance of the petitioner is directed against a communication dated 27th April, 2023 relating to a proposal for providing pay protection to the petitioner.

It is contended on behalf of the petitioner that by the impugned communication the proposal for service benefit and protection of pay to the petitioner has been rejected by the respondent authorities. It is further alleged on behalf of the petitioner that in terms of the extant Regulation and more particularly Section 14 of the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972 (Act of 1972), the West Bengal State Agricultural Market Board is the appropriate authority to take a decision on the above subject.

In this case, the Chief Executive Officer has taken the above decision, which is beyond the jurisdiction of the Act of 1972. In view of the *ex facie* jurisdictional error, the impugned order is liable to be set aside and the matter be remanded to the West Bengal State Agricultural Market Board.

On behalf of the respondent, it is submitted that the petitioner has a statutory alternative efficacious remedy under the Act of 1972 and the instant writ petition is not maintainable. However, it is fairly submitted that the clear mandate and express language of the Act only empowers the West Bengal State Agricultural Market Board to take a decision insofar as any proposal of providing pay protection to the petitioner is concerned.

In such view of the matter, the impugned communication is set aside. The matter is remanded to the West Bengal State Agricultural Market Board to take a decision insofar as a proposal of providing pay protection to the petitioner is concerned.

The decision is to be taken within a period of 12 weeks from the date of communication of this order and after giving an opportunity of hearing to the petitioner or his duly authorized representative.

It is made clear that there has been no adjudication on the merits of the case and all issues

are left open to be decided by the West Bengal State Agricultural Market Board in accordance with law.

It is needless to mention that the West Bengal State Agricultural Market Board will act strictly in accordance with law in considering the proposal of the petitioner.

With the above directions, WPA 13423 of 2023 stands disposed of.

(Ravi Krishan Kapur, J.)