

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

W.B.L.R.T. 130 of 2025

**Aladarput Vivekananda Vidya Mandir and another
Vs.
The State of West Bengal and others**

For the petitioners	:	Mr. Amit Baran Dash Ms. Ankana Sarkar
For the State	:	Mr. Supratim Dhar Mr. Ziaul Haque
Heard on	:	25.08.2025
Judgment on	:	25.08.2025

Sabyasachi Bhattacharyya, J.:-

1. The main writ petition is taken up for hearing.
2. The conspectus of the matter is very short.
3. The petitioners, in terms of applications made to, and permission obtained from, different authorities, including the concerned Panchayat Samiti, the Gram Panchayat as well as the

Zilla Parishad, has constructed a school on the embankment of a pond.

4. The embankment is situated on Plot no.21/156 whereas the pond is situated in the adjacent Plot no.21.
5. Learned counsel for the petitioners submits that since the school run on the plot by the petitioners wants to introduce the subject of Pisciculture in its curriculum, it applied for a long term lease both in respect of Plot no.21/156, where the school is being run, as well as Plot no.21, comprised of the pond.
6. However, both the DL & LRO as well as the Additional Secretary to the Government of West Bengal have rejected such request of the petitioners on the sole ground that grant of long term settlement of a water body cannot be approved in view of Rules 272 and 273 of the West Bengal Land and Land Reforms Manual, 1991 and that no conversion of the water body was possible. A challenge was preferred against such refusal before the West Bengal Land Reforms and Tenancy Tribunal, which having dismissed the same, the present challenge has been preferred.
7. Learned counsel for the petitioners further points out that the learned Tribunal refused to interfere with such refusal on the self-same ground that there is a clear embargo under Rules 272 and 273 of the 1991 Manual regarding conversion of water body.

8. Learned senior counsel appearing for the State submits that a discretion is vested with the authorities to grant or not grant a long term settlement to the petitioners in respect of a vested land.
9. Secondly, it is submitted that Rules 272 and 273, read in conjunction, debar the long term lease as sought by the petitioners from being given in respect of a water body.
10. However, we are unable to agree with the reasons given either by the Additional Secretary or by the DL & LRO or argued by the State for the rejection of the petitioners' application for grant of a long term lease, for the simple reason that neither Rule 272 nor Rule 273 of the 1991 Manual are attracted to the facts of the case.
11. Rule 272 pertains to situations where Government fisheries are sought to be settled with an individual, which are debarred under Rule 272.
12. On the other hand, Rule 273 speaks about part-vested tanks and considers a situation where the part of a tank/water body (fifty percent or more) is already vested with a raiyat, in which case the settlement of the rest of the pond with the said raiyat may be considered.
13. In the present case, the petitioners are not, and do not, claim to be raiyats in respect of any part of the pond and/or the

adjoining embankment, situated respectively on Plot Nos. 21 and 21/156.

- 14.** It is an admitted position that the land as well as the water body has vested in the State, which was the very premise of the petitioners applying before the State for grant of a long term lease.
- 15.** Hence, there is no scope of Rule 273 being applied. Also, otherwise, it is nobody's case that a Government fishery is being run from the water body regarding which such long term settlement has, inter alia, been sought.
- 16.** Hence, the very premise of the rejection by both the Additional Secretary to the Government of West Bengal and the DL & LRO was palpably erroneous and perverse.
- 17.** This court is fully aware of the discretion vested with the State to consider the grant or non-grant of a long term settlement of water body as per the petitioners' request.
- 18.** However, in the present case, the rejection on the part of the respondent authorities was a rejection prior to such discretion even being exercised, in the sense that the respondent authorities did not consider the commercial viability or merits otherwise of the application of the petitioners to have a long term settlement of the embankment and the pond at all and

rejected the same at the threshold, on the erroneous ground of a non-existent bar in law.

- 19.** Accordingly, the Tribunal acted in a perverse manner in affirming such rejection on the grounds as indicated above.
- 20.** Hence, WBLRT 130 of 2025 is allowed on contest, thereby setting aside the order dated November 13, 2024 as well as the impugned rejections by the Additional Secretary to the Government of West Bengal and concerned DL & LRO of the application of the petitioners to grant a long term settlement in respect of Plot nos.21 and 21/156 in favour of the petitioners.
- 21.** The matter is reverted back to the respondent authorities to ensure that a fresh consideration is given to the application of the petitioners for grant of long term settlement of lease in respect of Plot nos. 21 and 21/156 by the appropriate authority in accordance with law and in the light of the above observations.
- 22.** We make it amply clear that the appropriate authority shall consider the said application on merits and take a decision thereon in accordance with law in writing, giving reasons for coming to such decision.
- 23.** Such decision shall be intimated in writing immediately thereafter to the petitioners.

- 24.** The entire exercise, as indicated above, shall expectedly be concluded within three months from date.
- 25.** There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)

AD-07
AK