

FMA/46/2024
STATE OF WEST BENGAL AND ORS.
VS
SRI ASIM KUMAR CHAI

...

Mr. T. M. Siddiqui, AGP
Mr. Suddadev Adak,
Mr. Debdooti Dutta, Advocates
... .. For the Appellants

Mr. Soumya Majumder, sr. adv.
Mr. Sandip Chakraborty,
Mr. Ayan Banerjee,
Mr. Kaustav Das, Advocates
.. ...For the Respondent

1. Appeal is directed against an order dated March 9, 2022 passed in WPA 19922 of 2021.
2. By the impugned order, learned Single Judge, directed the State respondents to consider the proposal made by the writ petitioner in the writing dated January 31, 2016 and finalize such proposal in favour of the writ petitioner within two months from date of communication of the order.
3. Appellants are the State of West Bengal.
4. Writ petitioner approached the writ Court by way of WPA 19922 of 2021 seeking the following reliefs :-
“(a) A writ in the nature of certiorari calling upon the respondents, their men, agents and subordinates to certify and transmit and/or produce before this Hon’ble Court all records in connection with the present case so that the same may be perused by Your Lordships and upon such perusal, conscionable justice may be done.

- (b) A writ in the nature of mandamus commanding the respondents to finalise the application of the petitioner for long term settlement dated 31.1.2016 being Annexure"P-3" by setting the land in favour of the petitioner forthwith and within a time to be fixed by this Hon'ble Court.
 - (c) A writ in the nature of mandamus directing the respondents to take a decision on the basis of the various representations made by the petitioner being Annexure-P-9" collectively read with Annexure-"P-3" in a time bound manner.
 - (d) Rule NISI in terms of Prayers(a), (b) and (c) above.
 - (e) An ad-interim order in terms of Prayer (c) above.
 - (f) Any order or further order or orders as to this Hon'ble Court may deem fit and proper.
 - (g) Costs of and incidentals to the instant application."
5. The representation dated January 31, 2016 of the writ petitioner seeks long term settlement of a piece of land measuring about 3 cottahs in favour of the writ petitioner.
 6. Learned senior advocate appearing for the appellants submits that by reason of the land policy of the State, no individual allotment of land or lease of any property can be made without public auction. He refers to the land policy of the State enshrined in a document of 2022.
 7. Learned senior advocate appearing for the writ petitioner relies upon a list of dates and submits

that, his client initially was the lessee. Such lessee expired. There is no impediment in the State granting the lease as prayed for. In support of such contention he draws the attention of the Court to certain decision taken by the State authorities.

8. Learned senior advocate appearing for the appellants submits that the so-called decisions are inter-department communication and not binding on the State. In fact, no decision was taken for allotment for grant of lease in favour of the writ petitioner.
9. As noted above, the writ petitioner seeks grant of lease in respect of 3 cottahs of land. There subsists a land policy of the State of West Bengal with regard to the grant of land of Government properties to individuals. Such land policy speaks of public auction being held prior to allotment.
10. We take note of the provisions of Article 14 of the Constitution of India. In the facts of the present case, the writ petitioner seeks grant of largess of the State in the form of long-term lease of an immovable property.
11. Individual request for grant of long term lease or its consideration and allotment, without due public advertisement are against the principles of Article 14 of the Constitution of India.
12. The prayer for grant of long-term lease as contained in the representation dated January 31, 2016, is contrary to the provisions of Article 14 of the Constitution of India which requires the State to undertake distribution of land, by public auction.
13. In such circumstances, neither the writ petitioner is entitled to such a favour nor are the respondent

authorities with requisite jurisdiction to decide on such requisition.

14. Learned Judge erred in directing the respondent no.2 in the representation to consider such proposal and to finalize it.
15. In such circumstances, impugned order dated March 9, 2022 is set aside.
16. Written notes on argument and list of dates of both the parties be kept with record.
17. FMA/46/2024 along with connected applications are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)