

S/L 10
03.04.2025
Court. No. 236
Sourav

WPA 21206 of 2023

**Abir Lal Sawary
Vs.
The State of West Bengal & Ors.**

*Mr. Saibal Kr. Acharyya
Mr. Pradip Paul*

...for the petitioner.

*Mr. Manoj Malhotra
Mr. Saikat Sen*

...for the State.

1. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities i.e., the State and its functionaries commanding them to withdraw and/or cancel and/or set aside the order dated 24.07.2023 with a further prayer for issuance of appropriate writ/writs against the said respondents/authorities to enlist the present writ petitioner under the exempted category as land loser.
2. In course of hearing, learned advocate for the writ petitioner at the very outset draws attention of this Court to page no. 29 of the instant writ petition being a copy of the order dated 24.07.2023 as passed by the District Magistrate and Collector, Murshidabad (hereinafter referred to as 'the said District Magistrate', in short). By the said order dated 24.07.2023, the said District Magistrate rejected the prayer of the writ petitioner for enrolling his name in the exempted category as land loser on the ground that on account of acquisition of land to the extent of 0.003 acres from the

father of the writ petitioner, the main source of income of the family members of the writ petitioner was not affected substantially.

3. In course of his submission, learned advocate for the writ petitioner has filed photocopies of some documents regarding information of khatian and plot numbers in the name of one Samaun Basir. Let the photocopies of the said documents as filed on behalf of the writ petitioner be taken on record.
4. At this juncture, learned advocate for the writ petitioner requests this Court to peruse page no. 6 of the report dated 29.09.2023 as submitted by the Special Land Acquisition Officer, Murshidabad. It is submitted on behalf of the writ petitioner that from page no. 6 of the said report, it would reveal that from the said Samaun Basir, similar quantity of land was acquired by the respondent/State and the said Samaun Basir and one Abu Sufiyan, the father of the writ petitioner were awarded similar amount of compensation that is to the tune of Rs. 303/- for the said acquisition.
5. At this juncture, learned advocate for the writ petitioner draws attention of this Court to page no. 34 of the instant writ petition being a copy of an identity card in the name of said Samaun Basir. It is submitted on behalf of the writ petitioner that from the copy of the said identity card, it would reveal that the said Samaun Basir has given exempted category status on account of acquisition of same quantity of land but the writ

petitioner was unnecessarily deprived of granting such status i.e., exempted category though the quantum of acquisition of land from the father of the writ petitioner and the said Samaun Basir are identical and the writ petitioner's father and the said Samaun Basir were awarded same amount of compensation in respect of acquisition of same quantity of land in the same plot. It is thus submitted on behalf of the writ petitioner that the action of the respondents/authorities more specifically the action of the said District Magistrate while passing the impugned order dated 24.07.2023 is violative of Article 14 of the Constitution of India. It is thus submitted that appropriate relief/reliefs may be granted to the writ petitioner as prayed for.

6. Per contra, Mr. Sen, learned advocate appearing on behalf of the State at the very outset draws attention of this Court to the report dated 29.09.2023 as submitted by the Special Land Acquisition Officer. Attention of this Court is also drawn to Annexure-B to the said report being a copy of the Notification No. 301-EMP/1M-10/2000 dated 21.08.2002 as published by the Labour Department, Government of West Bengal. Mr. Sen submits that no discrimination took place while passing the order under challenge dated 24.07.2023 since the said District Magistrate had come to a finding that the writ petitioner is not entitled to get himself enrolled under exempted category in view of the fact that on account of acquisition of 0.003 acres of

land, the income of the family members of the writ petitioner was not affected substantially.

7. On careful consideration of the entire materials as placed before this Court, this Court considers that for effective adjudication of the instant *lis* the relevant notification dated 21.08.2002 is required to be looked into. The relevant portions of the said notification is quoted hereinbelow in verbatim:

“No. 301-EMP/1M-10/2000 – 21st August 2002. – In exercise of the powers conferred by sub-section (a) of section 3 of the West Bengal Regulation of Recruitment in State Government Establishments and Establishments of Public Undertakings, Statutory Bodies, Government Companies and Local Authorities Act, 1999 (West Bengal Act XIV of 1999), the Governor is pleased to declare following categories or persons as exempted categories for the purpose of the aforesaid Act:-

1.....

2.....

3. Persons belonging to the families of land losers: Candidates hailing from families who might have been uprooted from their places of residence due to acquisition of homestead land by the Government or whose main source of income is substantially affected due to loss of agricultural land as a result of the land in question being acquired by the Government for public purpose shall also be covered in this category.

Only one member from an uprooted/affected family shall be eligible for consideration against vacancies reserved for

the exempted categories. This beneficiary should be either an awardee of compensation for acquisition of land or a member of the family of the awardee.

This shall be applicable only in respect of cases where the land in question has been acquired by the State Government on or after 17th October, 1977.

4.....

5.....”

8. Keeping in mind the provisions of the said notification dated 21.08.2002, if I look to the order under challenge dated 24.07.2023 as passed by the said District Magistrate, it reveals to this Court that while passing the said order under challenge, the District Magistrate has come to a factual finding that from the father of the writ petitioner only 0.003 acres of land was acquired for the purpose of construction of road along the Indo-Bangladesh Border, Dist – Murshidabad.
9. It further appears to this Court that while passing the said order under challenge, the said District Magistrate also considered the certificate of the BDO, Bhagwangola-I. The said District Magistrate came to a factual finding that the main source of income of the father of the writ petitioner is not from the agriculture but from business.
10. The said District Magistrate thus came to a factual finding that on account of an acquisition of a poultry quantum of agricultural land i.e., 0.003 acres from the father of the writ petitioner the income of the family

members of the writ petitioner including his father was not affected substantially. It appears to this Court that such factual finding of the said District Magistrate is at par with Clause 3 of the said notification dated 21.08.2002 as have been quoted in the foregoing paragraph. The Clause 3 of the said notification dated 21.08.2002 made it clear that in order to declare a person under exempted category, the following is required to be established, namely:

On account of acquisition, the applicant was uprooted from his homestead land or the applicant's main source of income is substantially affected due to loss of agricultural land on account of such acquisition.

11. It thus appears to this Court that the said District Magistrate while passing the order under challenge came to a categorical finding on the basis of the income certificate issued by the Bhagwangola-I that the main income of the father of the writ petitioner was from business. No contrary material was placed on behalf of the writ petitioner to substantiate that the report of the BDO, Bhagwangola-I is not correct. It is also undisputed that the acquired land is agricultural land and not homestead.
12. This Court is conscious that in exercise of its writ jurisdiction, this Court should not enter into and/or encroach the domain of the executives unless the Court finds perversity in their action.

13. Though the learned advocate for the writ petitioner was very vocal for violation of Article 14 of the Constitution of India, this Court finds no merit in such submission in view of the fact that mere similarity of disbursement of amount of compensation cannot be a ground for considering the case of the writ petitioner under Clause 3 of the said notification dated 21.08.2002.
14. In view of the discussion made hereinabove, this Court finds no merit in the instant writ petition.
15. Accordingly, the instant writ petition being **WPA 21206 of 2023** is dismissed.
16. There shall, however, be no order as to costs.
17. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)