

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 28594 of 2024

(Malda Progressive Vegetable Businessmen's
Welfare Association & Anr. Vs. The State of
West Bengal & Ors.)

Ms. Salma Sultana Shah
Mr. Sani Hossain

.... For the petitioners

Sk. Md. Galib
Ms. Priyamvada Singh

..... For the State

Ms. Sutapa Sanyal
Mr. Debrup Bhattacharjee
Mr. Pradeep Kr. Tulsyan

..... For the respondent no. 6

Affidavit-of-service filed today be kept on record.

The writ petitioners complain that they have been denied rehabilitation by the Respondent No. 6 despite the writ petitioners being entitled to the same in terms of verbal assurances given to them by the said respondent.

It has been submitted by Ms. Shah, learned advocate appearing for the writ petitioners that the writ petitioners have made several representations before the respondent authorities, all of which went unheeded. She further submits that the respondent no. 6 went ahead and put the open market space which was earlier being used by the petitioners to auction, without adhering to the assurances given by the said respondent to the petitioners.

Ms. Sanyal, learned advocate appearing for the respondent no. 6 hands up a copy of synopsis of facts prepared by the Secretary, Malda Zilla Regulated Market Committee (hereafter “the Committee”) and vehemently disputes the submissions made on behalf of the writ petitioners. She submits that the spaces that have been put on auction were market spaces owned by the committee and the committee has done so rightly and rightfully.

She further submits that this exercise of auction was undertaken on the basis of a strategic plan aimed at improving the market by constructing closed units of varied sizes which could be used by interested persons as godowns or shops or stalls or the like.

Alluding to the representations made by the petitioners, she further submits that the petitioners had made representations to the authorities concerned seeking spaces on ownership basis but such request could not have been acceded to inasmuch as the scheme/guidelines in terms whereof the auction was held, provided only for allotment of stall or shops or godowns or the like on license or lease basis upon payment of a fixed monthly rent or fixed monthly consideration.

It has been further submitted on behalf of the respondent no. 6 that the writ petition in any case is not fit to be entertained inasmuch as the writ petitioners have approached this Court long after the

conclusion of the auction. It is submitted that the writ petitioners had ample opportunity to participate in the auction if they so desired but they chose not to. It is further submitted that the writ petitioners were aware that the auction was supposed to be held in terms of a notification dated September 6, 2024 which would be evident from the writ petitioners' own averments in paragraph 6 of the writ petition read with the notification annexed at page 20 thereof.

She has further drawn the attention of the Court to a notesheet prepared by the respondent no. 6 wherefrom it will appear that a good number of bidders got qualified in the said auction and that at least 50 spaces are still lying vacant for allotment.

It has been further submitted on behalf of the respondent no. 6 that in respect of the said 50 spaces which are still lying vacant for allotment, a further auction is in contemplation of the committee and the same may be held in the near future. Ms. Sanyal submits that the petitioners can avail of the opportunity of participating in the said auction as and when the same is held.

In response to the submissions made on behalf of the respondent no. 6, Ms. Shah, the learned advocate appearing on behalf of the petitioners, seeks liberty for the petitioners to participate in the said auction which may be held in future. In fact no liberty is required to be granted by this Court to the petitioners inasmuch

as if the petitioners are entitled to participate in the auction, in accordance with the terms of the auction as stipulated by the auctioneer, the petitioners would always be at liberty to exercise such right.

Having considered the submissions made on behalf of the respective parties in the light of the material on record, this Court finds no reason to issue a writ of mandamus as prayed for. In fact no justiciable or justifiable grievance has been put forth by the petitioners in the present writ petition. The writ petitioners have failed to demonstrate that any right of the writ petitioners, far less any constitutional right has been infringed by the respondents. This Court also does not find any arbitrariness or any act of discrimination on the part of the respondents. The writ petition therefore cannot be entertained to grant the reliefs, as prayed for.

WPA 28594 of 2024 is disposed of with the aforesaid observations.

There shall, however, be no order as to costs.

A copy of the instruction handed up by Ms. Sanyal, learned advocate appearing for the respondent no. 6 is taken on record.

(Om Narayan Rai, J.)