

0707
2025

MONDAY

Court : CB-07
Item : ML-02
Bench : SINGLE
Matter : WPA
Status : DISMISSED
ID : 266057
AR : NANDY

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA10429 OF 2020

TULU SENGUPTA & ORS.
VS.

THE STATE OF WEST BENGAL & ORS.

MR. KAMALESH BHATTACHARJEE, ADVOCATE
MR. MD. YUSUF ALI, ADVOCATE

.....for the Petitioner

MR. PANTU DEB ROY, ADVOCATE
MR. SUBRATA GUHA BISWAS, ADVOCATE

..... for the State

MR. ABHISHEK BANERJEE, ADVOCATE

.....for the Respondent No. 3

1. Citing inaction on the part of Respondent No. 3 in considering the petitioner's representation, the present writ petition has been preferred.
2. Mr. Bhattacharjee, learned Advocate representing the petitioners, submits that the petitioners would be satisfied if a direction is given to Respondent No. 3 to consider their representation and take a decision thereon.
3. Mr. Banerjee, learned Advocate representing Respondent No. 3, submits that Respondent No. 3 is a private entity and is not a 'State' within the meaning of Article 12 of the Constitution of India. He further submits that no public law element is involved in the instant writ petition and, accordingly, the same is not maintainable in its present form.
4. Mr. Guha Biswas, learned Advocate appearing for the State, adopts the submissions made by Mr. Banerjee.
5. In reply, Mr. Bhattacharjee submits that the land was acquired by the Government following the prescribed procedure, and thereafter handed over to Respondent No. 3 for the construction of a building thereon. He further submits that the land was

purchased from the petitioners on the condition that a road would be constructed on that plot, which would be used by the petitioners and other local inhabitants to access VIP Road from their respective residences. He submits that, for this reason, a public law element exists, warranting interference by this Court exercising power under Article 226 of the Constitution through the present writ petition.

6. Admittedly, Respondent No. 3 is a private entity and does not fall within the definition of 'State' under Article 12 of the Constitution. Furthermore, neither the State nor any of its functionaries was signatory to the sale deed or any other agreement executed between the petitioners and Respondent No. 3. Consequently, the petitioners have failed to demonstrate the existence of any statutory duty on the part of the State or its authorities that would warrant the invocation of the writ jurisdiction of this Court.
7. In view thereof, I express my agreement with the contention raised by Mr. Banerjee and am of the view that the writ petition is not maintainable in its present form.
8. Accordingly, **WPA 10429 of 2020 is dismissed.**
9. However, it is clarified that this order shall not preclude the petitioners from approaching the appropriate forum to redress their grievances, nor shall it prevent the petitioners from approaching the West Bengal Housing Board to ventilate their grievances.

(PARTHA SARATHI CHATTERJEE, J.)

