

24.09.2025
Suppl. No. 2
Ct. No. 30
Aloke

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

WPA 2099 of 2025

**Subarnapur Tea Estate Private Limited
Vs
The State of West Bengal & Ors.**

Mr. Sanjib Bandyopadhyay
Mr. Ashok Kr. Singh
Mr. Pritam Das
Mr. Madbusudan Sardar
Ms. Pritilata Sardar
... for the petitioner

Mr. Rajdeep Mazumder, Id. Sr. Adv.
Mr. Moyukh Mukherjee
... for the respondent no. 5(b)

1. Affidavit-of-service filed be kept with the record.
2. The writ application has been preferred praying for direction upon the respondent authorities to dispose of the petitioner's representation dated 29.08.2025.
3. On hearing the learned counsels for the parties, it appears that the **Additional Labour Commissioner, North Bengal Zone**, vide an order dated 22.08.2025 had directed payment of bonus as per direction in the said **Advisory**.
4. The petitioner's submission is that they are running at a loss for last three years and, as such,

are not in a position to pay bonus as declared by the Additional Labour Commissioner and as the workers have created trouble in the Tea Estate, notice of suspension of operation has been declared on 19.09.2025.

5. Learned counsel for the petitioner relies upon a judgment of the Supreme Court in ***The Management of Worth Trust vs. The Secretary, Wroth Trust Workers Union*** reported in **2025 latest case law 320 SC**. Paragraph 18 and 19 being relevant is reproduced herein:

*“18. The Tribunal had awarded the minimum bonus to the worker i.e., **8.33%** of the annual earnings and when this award was challenged by the appellant before the High Court, the learned Single Judge dismissed the challenge with a slight modification that bonus shall be paid after deducting the amount of ex-gratia already paid to workmen. This order of the Single Judge directing adjustment of the amount of ex-gratia against the bonus was never challenged by the workmen.*

19. We hold that the appellant is not exempted under section 32(v)(a) or (c) of the Bonus Act, and the workmen of the respondent-Union, who are engaged by the appellant in its factories, are entitled to get the bonus in accordance with law. Therefore, the appellant is directed to pay bonus to its workmen, as per provisions of the Bonus Act, from the

year 1996-1997 till date. This must be done within a month of this order.”

6. On perusal of the said judgment, it appears that the Court took note of the order of the Tribunal which had awarded a **minimum** bonus to the workmen @ 8.33% of the annual earnings.

7. It is submitted by the petitioner, that they are ready and willing to **pay 9%** which is more than the **minimum** bonus, but it submitted by the respondents that the Additional Labour Commissioner decided the percentage of Bonus as per Section 25 of the Payment of Bonus Act, 1965 and the same is to be 20% as has been paid by the majority of the tea gardens.

8. Learned counsel for the respondent submits that the present writ application is not maintainable in view of Section 22 of the Payment of Bonus Act, 1965.

9. The respondents have placed a judgment of a Co-ordinate Bench passed in WPA 11701 of 2023 dated 01.08.2023, relying upon paragraph 18 and 19 of the said judgment. On perusal of the said judgment and order, it appears that in the said case an Advisory dated 27th April, 2023 was challenged. The Court while considering the validity of the said Advisory also gave his findings relating to the applicability of the Minimum Wages Act to the

workers of the tea plantation in West Bengal and finally held that the petitioners could not question the said Advisory.

10. In the present case too, the Advisory dated 22.08.2025 has been challenged wherein the Additional Labour Commissioner has directed bonus to be paid @ 20%. The petitioner herein agitate their incapability of paying Bonus @ 20% which is the maximum amount, in view of their financial condition.

11. Considering that “bonus” is an amount to which the workers are entitled to, after having put in a period of hard labour, this Court is also not inclined to interfere with the said Advisory.

12. But considering that Durga Puja is only two days away, it is directed that **the petitioner herein will pay interim bonus @ 9% as agreed by the petitioner alone by 27th September, 2025.**

13. It is made clear that **the balance amount of bonus as claimed by the workers** will be subject to the due provision of law that is, the Payment of Bonus Act and the relevant provisions of the Industrial Disputes Act.

14. The respondent authority, being the State of West Bengal through the Labour Commissioner, West Bengal/the concerned District Magistrate shall take necessary steps to ensure that a conciliation proceeding regarding the payment of the **balance**

amount of bonus as claimed by the workers

herein, on the basis of the Advisory dated 22.08.2025 is held/conducted and settled.

15. **WPA 2099 of 2025 stands disposed of.**

16. Connected application, if any, stands disposed of.

17. Interim order, if any, stands vacated.

18. Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Shampa Dutt (Paul), J.)