

(2019) 03 CAL CK 0045
In the Calcutta High Court

Case No : Writ Petitions (WP) 2673, 2674, 2675 (W) Of 2018, CAN 369, 370, 390 Of 2019

Rajib Dey

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 13-03-2019

Acts Referred:

Citation : (2019) 03 CAL CK 0045

Hon'ble Judges : Protik Prakash Banerjee, J

Bench : Single Bench

Advocate : Kalyan Sengupta, Rahul Karmakar, Sayanti Sengupta

Judgement

Despite several chances none appeared on behalf of the State of West Bengal to oppose the grant of reliefs. On an earlier occasion one of the batch of these writ petitions was allowed as also the other petitions but so far as the other petitions were concerned after their disposal on the prayer of Mr. Susovan Sengupta, learned Senior Government Advocate without a formal application I have shown mercy to the State of West Bengal by not signing the said order. Today also the State of West Bengal is absent.

Mr. Karmakar, learned Advocate of the petitioners pursuant to my earlier direction and liberty has taken out applications for addition of party in respect of the State of Odisha in view of the direction of the learned National Green Tribunal in respect of the boundary dispute between the State of West Bengal and the State of Odisha. Affidavits-of-service have been filed today showing service on the State of Odisha through speed post and the recipients being the State of Odisha through the Secretary, Revenue and Disaster Management Department and the other officers of the State of Odisha. This is sufficiently substantiated by the tracking report which forms part of the affidavits-of-service and the respondents therefore have been served. The State of Odisha and its officers referred to in the civil applications being CAN 390 of 2019, CAN 370 of 2019 and CAN 369 of 2019 in the three writ petitions are therefore added as party

respondents. Since none has appeared to oppose the applications it is deemed that they accepted the contentions on the basis of which addition of party was sought.

Since the respondents have been added as parties after copies of the applications have been served on them service of a fresh copy of the writ petition is merely a formality. This is in view of the order I propose to pass on the writ petitions which will not affect the added respondents. The cause title of the writ petitions shall be amended by the learned Advocate on Record of the petitioners before the principal officer of this Court within the course of Monday (March 18, 2019) and copies of the amended writ petitions shall be made available to all the respondents including the added respondents within the course of Monday (March 18, 2019).

So far as these writ petitions are concerned despite service of the writ petitions the State of West Bengal has chosen not to oppose the grant of the reliefs as I have mentioned above. Accordingly, it is clear that the respondents have nothing to say against the writ petitioners in respect of the prayers (b), (c) and (d) of the writ petition. In terms of note 3 of the supplementary list I can take up the matters on merits in absence of the State.

Accordingly I take up the writ petitions on merit setting the State of West Bengal ex parte and decide on merit that the State of West Bengal has admitted the case made out by the writ petitioners and set aside the impugned memo in terms of prayers (b) and (c) of the writ petitions and direct the authorities to refund the amount as mentioned in prayer (d) within a fortnight from the date of communication of this order. In case the refund is made within the time period mentioned above the amount shall not carry any interest. If the State of West Bengal defaults in respect of the time period in addition to the proceeding for contempt the petitioners shall be entitled to interest (simple) at the rate of 10% per annum from the fortnight from the date of communication of this order till the date of actual payment. For the purpose of compliance of this order the Secretary to the Government of West Bengal, Commerce and Industries Department through whom the respondent no.1 has been arrayed shall be liable. The writ petitions are allowed to the above extent.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned Advocates for the parties, upon compliance of all formalities.