

(2006) 12 CAL CK 0031
In the Calcutta High Court
Case No : Writ Petition No. 24511 (W) of 2005

Surja Kanta Naskar

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 13-12-2006

Acts Referred:

Citation : (2007) 1 CALLT 631 : (2007) 1 CLT 631

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Mitali Das, for the Appellant;

Judgement

Jayanta Kumar Biswas, J.—The petitioner is aggrieved by the decision of the Block Development Officer, Magrahat II South 24 Parganas dated October 6th, 2005, which is:

In compliance to the order dated 27.07.05 of the Hon''ble High Court at Calcutta, Sri Surja Kanta Naskar & Sri Gobinda Naskar, prodhan Urelchandpur Gram Panchayat were called for hearing on 12.09.05 and accordingly they attended the hearing. Sri Surja Kanta Naskar submitted 3(three) documents in favour of its claim:

- i) Receipt copy of prayer for construction of house under IAY submitted to B.D.O. Magrahat II.
- ii) Receipt copy of prayer for construction of house under IAY submitted to Sabhapati, Magrahat II Panchayat Samiti.
- iii) Certificate issued by prodhan Urelchandpur G.P. dated 13.01.04.

Sri Surja Kanta Naskar also mentioned that his name had been enlisted in the Annual Action Plan of IAY.

Now after hearing and further verification of the documents viz. i) Annual Action Plan (A.A.P) of IAY of 2002-2003 & 2004-2005 of Urelchandpur G.P., it appears

to me that:

1) Sri Surja Kanta Naskar, S/q Bhabha Sindhu Naskar had been enlisted in the sl. No. 20 of Annual Action Plan of IAY for the financial year 2003-2004 but fund for only eight beneficiaries had been received during the year and that was distributed to the beneficiaries as per sl. No. of A.A.P. Consequently Sri Surja Kanta Naskar did not get the benefit of IAY in that year.

2) In the A.A.P. of IAY new construction for the financial year 2004 -2005 the name of Sri Surja Kanta Naskar had not been selected.

As per guidelines of Indira Abas Yojana (IAY) the list of beneficiary i.e. the Annual Action Plan must be selected and finalized by the respective Gram Sansad and the beneficiary must be included in the A.A.P. As the name of Sri Surja Kanta Naskar did not fulfill the criteria 1 & 2 as mentioned above and which are essential for getting the benefit of IAY.

I, therefore, dispose the matter by giving the order that Sri Surja Kanta Naskar is not entitled to get the benefit of IAY new construction for the financial year 2003-2004 & 2004-2005.

2. He moved a previous writ petition [No. 21675(W) of 2004] alleging that although the body concerned enlisted him for getting benefit in terms of Indira Abas Yozona so that he could construct his residential house, the authorities were not disbursing the amount. He further alleged that his representation dated February 4th, 2004 made to the block development officer was not considered as well. By order dated July 27th, 2005 that writ petition was disposed of directing the block development officer to give a reasoned decision regarding the grievances narrated in his representation dated February 4th, 2004. This is how the impugned decision came to be given.

3. By order dated February 20th, 2006 this writ petition was admitted in presence of advocate for the state. Directions were given for filing affidavits. No affidavit has been filed. The matter was taken up for hearing on December 7th, 2006. Since none appeared on that date, I directed advocate for the petitioner to give a notice to advocate for the respondents. It is submitted that notice was given. None appears for the respondents even today. It seems to me that the respondents have taken the matter casually. In para 2 of the writ petition it has been alleged that for the financial year 2002-03 the petitioner was enlisted as the number one beneficiary. He mentioned about the resolution of the competent body dated October 30th, 2002. That fact was also mentioned by him in his representation dated February 4th, 2004. That representation was to be considered by the block development officer in terms of order of this Court dated July 27th, 2005.

4. It is apparent on the face of the impugned decision that the fact that for the financial year 2002-03 the petitioner was the number one enlisted beneficiary was completely ignored by the block development officer. His decision suffers

from gross non-application of mind. Hence it is liable to be set aside. I must say that insensitiveness and casual approach of the authority has driven the poor petitioner to the Writ Court. His harassment did not end there. In spite of repeated notices, the state authorities have cared little to assist this court by filing affidavit or by appearing through their counsel. The attitude cannot be countenanced particularly having regard to the fact that the petitioner is a person who belongs to the below poverty level class of the society. The authorities, in my view, unnecessarily generated this litigation.

5. For these reasons, I set aside the impugned decision and direct the block development officer to give a fresh decision in the matter. If it is found that the claim of the petitioner that for the financial year 2002-03 he was enlisted as the first beneficiary, then steps shall be taken for releasing the benefit in terms of the scheme within a fortnight from the date of decision of the authority. The decision shall be given (after giving the petitioner an opportunity of hearing) within seven days from the date of communication of this order. The block development officer shall pay to the petitioner Rs. 6,000/- costs, and that amount shall also be paid within seven days from the date of communication of this order.

Urgent certified xerox copy of this order, if applied for, shall be supplied to the parties within three days from the date of receipt of the file by the section concerned.