

12
jdt.

28.02.2024
jb.

WPA 19187 of 2023
(Ashok Ghosh vs. State of West Bengal & Ors.)

Mr. Sayan Sinha
Mr. Adil Naser
Mr. Aniruddha Ganguly
Mr. Soham Kumar
.... For the Petitioner
Mr. Amal Kr. Sen
Mr. Lal Mohan Basu

Heard learned counsels for the parties.

Learned counsel for the respondents has produced an order of the Director of Land Records and Surveys and Joint Land Reforms Commissioner, West Bengal passed vide Memo No. 16/5123-40/C/2001 dated 27th August, 2001 which authorises the Block Land and Land Reforms Officer to lodge FIR in the local police station instead of Court of law under Section 4D of the West Bengal Land Reforms Act, 1955 against an offender for violation of the provisions of Section 4C of the Act.

Per contra, learned counsel for the petitioner takes this Court to a

notification issued by the Principal Secretary to the Government of West Bengal on December 30, 2010 which states that the Block Land and Land Reforms Officer is appointed to discharge the function of a Collector within his jurisdiction to regularise change of character, conversion or alteration in the mode of use of any plot of land not exceeding 0.03 acre situated in the area falling within the local limits of any Municipal corporation or Municipality, or any plot of land not exceeding 0.08 acre situated in the area not falling within the local limits of any Municipal corporation or Municipality, other than any plot of land having water body of any description or size, which has been made in the violation of the provision of sub-section (2) of Section 4C of the said Act. Learned counsel submits that the Block Land and Land Reforms Officer has no authority to deal with violation of the provisions of sub-section 4C (2) of the Act. Learned counsel also submits that the circular issued by the authority is merely a inter departmental communication which cannot override the notification issued by the Government.

The notification dated December 30, 2010 authorises the Block Land and Land Reforms Officer to regularise change of a character, conversion or alteration in the mode of use of any plot of land other than a water body. Therefore, violation pertaining to water body is not covered by the said notification which deals with regularisation of change of character, conversion or alteration in the mode of user. On the other hand, the order issued by the Director of Land Records and Surveys authorised the Block Land and Land Reforms Officer to lodge FIR before the local police station against the offender under Section 4D of the Act for violation of Section 4C thereof.

In view of the above, this Court is inclined to hold that the notification dated December 30, 2010 has nothing to do with lodging of FIR by the Block Land and Land Reforms Officer under Section 4D of the Act since the Block Land and Land Reforms Officer has been authorised to lodge such complaint by the order dated 27th August, 2001. The subsequent notification does not supersede the earlier order passed by the competent

authority and the notification and the order are passed on two separate considerations altogether.

In the result, this Court is of the view that the complaint lodged by the Block Land and Land Reforms Officer on 27th July, 2023 does not suffer from any illegality or irregularity demanding intervention by this Court.

Accordingly, the writ petition being devoid of any merit is dismissed.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)