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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO(P)/12/2022
SULAGNA MUKHERJEE
-VS-

THE STATE OF WEST BENGAL & ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNAM
And
THE HON'BLE JUSTICE AJAY KUMAR GUPTA
Date : 21ST June, 2023

Appearance :

Mr. Mukul Lahiri, Sr. Adv.
Mr. Arindam Lahiri, Adv.
Mr. Ravi Kumar Dubey, Adv.
Mr. Mainak Ganguly, Adv.
...for petitioner
Mr. S.N. Mookerji, Ld. A.G.
Mr. T.M. Siddiqui, Adv.
Mr. P. Sinha, Adv.
...for State

The Court : By way of this Public Interest Litigation filed by a practising Advocate of this Court, who also happens to be a Tram Enthusiast, direction has been sought for upon the respondent to disclose the policy decision and cabinet decision regarding plying of Trams in the City of Kolkata and to operate Tram Service in the existing route and resume services of the suspended routes. The petitioner also seeks for issuance of a Writ of Mandamus to file a investigating report by a third party/independent agency regarding the dealing with the land property of CTC and the amount held out through promoters/developers for development over the land of CTC as also on the purchase of the Trolley Buses and Electric Buses and the scheme framed for the same for the period 2018 onwards. The petitioner also seeks for a specific direction to take all steps for restoration of

Tram Service and also for a direction upon the respondent authorities to disclose the sale proceeds from the auction/sale of Tram Cars from the period 2018 onwards. The writ petition has been pending for nearly a year and in terms of the direction issued on 23.09.2022 a report was required to be filed by the respondent, the matter subsequently was heard on 23.12.2022 and 3.2.2023 on which dates the matter was adjourned for filing the report. Thereafter the report had been filed and by order dated 17.03.2023 time was granted to file exception to the report. Thereafter, the matter has been listed before this Court. In terms of the direction issued the petitioner has filed exceptions to the report.

After we have heard the learned Senior Advocate appearing for the petitioner and the learned Advocate General appearing for the respondent/State we find that the authorities have taken a decision to suspend the Tram Services or to restrict its operations have not had a broader vision of the whole concept of operating Tram Services in Kolkata. It is an undisputed fact that Trams in Kolkata are part of its heritage. The respondents being a welfare State are also to preserve the heritage for the purpose of not only enjoying the same for the present but also to preserve the same for posterity. When the public of Kolkata are very proud that the Durga Puja Festival has been given heritage tag by UNESCO, equally they should be proud to have the Tram Services restored, maintained and operated efficiently in the city of Kolkata. Undoubtedly, expenses are to be incurred for preserving such heritage status and at a time the expenses will definitely be more than the expenses which is normally required to be spent for new projects. Nevertheless, the respondent State has to take a proactive step in this regard to rethink on the decision taken by them. On perusal of the report filed by the respondents we find that there is no definite policy decision taken by the Government to scrap the entire

tramways in the city of Kolkata. In another writ petition which was filed as a Public Interest Litigation and an interim order has been granted restraining the respondents from dismantling the tramway lines which are presently in existence though the Court was informed that certain lines have already been uprooted and filled up and roads have been laid. The petitioner had filed an application under the provisions of the Right to Information Act (R.T.I.) seeking for various details and from the reply given by the public information officer it is seen that the total length of the tramway lines in the city of Kolkata was 116.62 kilometers and the tramway line currently used by WBTC is only 33.04 kilometers and trams are operated only in three routes and in twenty routes which has not been operated.

This Court was surprised to note that substantial assets of CTC, which were used either as Tram Shed or Depots have been sold by way of public auction and private parties have developed projects on the said properties. It is not very clear as to what happened to those funds realised. As could be gathered, from the information furnished it has been utilised to repay the loans etc. Admittedly, any property of CTC, which were used as depots or workshops or Tram Sheds or property of the Tramway company which is a wholly owned Government organisation, therefore, if such assets are to be disposed of which have a public character, a serious thought process is required since several Governmental projects may require land and unless and until there is a clear stand that such land owned by a public sector is not required for any public purpose or any Governmental purpose then and then only the said properties are put up for auction. Be that as it may, we are required to consider as to what has to be done in the present circumstances. As pointed out earlier, the report submitted by the respondent does not address the very important issue for preservation of the heritage. This is the

most important aspect which has to be examined, which has lost the attention of the respondent. Therefore, we are of the view that appropriate authority of the respondent namely the first respondent should immediately form a committee consisting of the relevant Government representatives along with public who are Tram users in this state and we recommend that this writ petitioner be also included in the committee apart from the representatives of the NGO, which had filed WPA(P)/214/2023 and such other organisation which would be interested in preserving the heritage and culture. The committee should also consists of experts in the field of preservation of heritage and culture drawn from different sources and it should be a broad based committee with independent minds so that the committee can examine and submit a report to this Court as to how the Tram Services can be restored, maintained and preserved in the city of Kolkata. The respondent State should not treat this writ petition as an adversary writ petition but should appreciate the issues which have been flagged by the petitioner, as it is the duty of the State to preserve the heritage.

This Court takes judicial notice of the fact that several heritage structures in the State are being preserved by State. Either fully funded by the State or partly funded by the Centre. Therefore, we are of the clear view that the Tram Services should not be totally effaced or dismantled in the city of Kolkata. Furthermore, if the Tram Services are to commence operations the tram shed and depots are required for its efficient and effective operation. Therefore the respondents are restrained from selling or putting up for sale by way of public auction any of the properties of the West Bengal Transport Corporation or the Calcutta Tramways Corporation until further orders in this writ petition. The first respondent is directed to suggest the names of the committee directed to be formed by filing a report before

this Court on the next hearing date and Court will finalise as to constitution of the said committee and also frame the terms of reference to the committee for them to deliberate and submit a report. The first respondent is directed to suggest the names of the committee members within a period of three weeks from date. Let this writ petition be listed on 19th July, 2023 along with WPA(P)/214/2023.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(AJAY KUMAR GUPTA, J.)