

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

W.P.(C) No. 46/2023

CHEWANG DORJEE BHUTIA

PETITIONER (S)

VERSUS

THE SECRETARY, LAND REVENUE
DEPARTMENT AND ORS.

RESPONDENT (S)

For Petitioner : Ms. Rinchen Ongmu Bhutia, Advocate.

For Respondents No. 1 to 3 : Mr. Zangpo Sherpa, Additional Advocate General with Mr. Sujan Sunwar, Assistant Government Advocate.

For Respondent No.4 : Ms. Gita Bista, Advocate, appears without Vakalatnama.

Date: 08/12/2023**CORAM :****HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE**

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J U D G M E N T

Pursuant to this Court's order dated 06th December, 2023, the learned Advocate-on-Record of the petitioner has ensured effective service of notice upon private respondent no.4. On behalf of the said private respondent no.4, Ms. Gita Bista, Advocate, appears and submits that although she has not yet filed a Vakalatnama, she undertakes to file the same before this Court within 20th December, 2023.

The only issue which falls for consideration in the facts and circumstances of the instant case is whether adequate opportunity of hearing was granted in favour of the writ petitioner by the statutory appellate authority, being the Secretary, Land Revenue Department, Government of Sikkim, while passing the impugned order dated 02nd June, 2023.

The learned Additional Advocate General was requested to take instructions in this respect and apprise the Court accordingly so that the matter could be expeditiously disposed of.

Today, when the writ petition is taken up for consideration, it is submitted by the learned Additional Advocate General representing the State of Sikkim that

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no opportunity of hearing was granted in favour of the writ petitioner by the statutory appellate authority, being the Secretary, Land Revenue Department, Government of Sikkim.

In such circumstances, this Court is of the view that purely on the basic ground of violation of the principles of natural justice, the impugned order dated 02nd June, 2023, passed by the appellate authority, is liable to be set aside and is accordingly set aside. The statutory appellate authority shall hear out the appeal application dated 11th April, 2023, afresh, after giving adequate opportunity of hearing to all concerned including the writ petitioner and the private respondent no.4, strictly in accordance with law. The statutory appellate authority shall dispose of the appeal as expeditiously as possible, preferably within a period of three (03) months but not later than four (04) months from the date of communication of this order.

Since no affidavits have been called for, allegations made in the writ petition are deemed to be not admitted by the respondents.

The writ petition, being W.P.(C) No.46 of 2023, is accordingly disposed of.

(Biswanath Somadder)
Chief Justice