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February 10,
2020

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P. No.21543(W) of 2019

**Raja Hazra and another
Versus
The Union of India and others**

Ms. Sayanti Sengupta,
Mr. Jamiruddin Khan.
...for the petitioners.

Mr. Amal Kumar Datta.
...for the respondent no.1.

Mr. Partha Sarathi Basu,
Mr. Satyajit Talukdar.
...for the K.M.D.A.

Mr. Alok Ghosh,
Mr. Arijit Dey.
...for the K.M.C.

Mr. Sirsanya Bandopadhyay,
Mr. Arka Kumar Nag.
...for the State.

The primary grievance of the petitioners, originally slum dwellers under the Tallah Bridge, is that although the petitioners and other persons in the said locality were evicted from the space under

the Tallah Bridge, they were not given proper rehabilitation worth living.

Learned counsel for the petitioners argues that the petitioners are living under the open sky and in make-shift plastic tents, although some of the petitioners and their family members are pregnant women and children and, as such, the conditions under which they are living does not befit a life worth living.

Although learned counsel for the petitioners was candid in submitting that there is no specific law entitling the petitioners to such rehabilitation and/or any scheme in that regard, despite United Nations Resolutions and various international treaties to which India is a signatory conferring such rights, it is argued that the basic human rights of the petitioners are being violated by virtue of such relocation without proper rehabilitation.

On the last occasion, when the matter was taken up, an apprehension was expressed on behalf of the petitioners that the stretch of land on which the petitioners had been relocated, was also under the threat of eviction, since the Irrigation Department and the State Government had apparently undertaken minor repair works which required the eviction of the petitioners from the said relocated place as well in their internal communications. As such, it is argued that the petitioners ought to be given the right to retain their present

habitation, where they have been relocated, that too under conditions which befit the basic conditions of a healthy human life.

Learned counsel for the State-respondents, in his usual fairness, took instruction in the matter and submitted that there has been an inter-communication between the Irrigation Department and the State authorities and it is understood that minor repair works undertaken by the Irrigation Department would be without disturbing the present habitation of the petitioners and other evicted persons under the Tallah Bridge from their present location.

It is further assured on behalf of the State that, in the event subsequently the petitioners and the other such evicted persons have to be ousted from their present location for some reason, including due to major repair works being undertaken in future, they would be given a proper shelter at some alternative location.

In view of such fair submission on behalf of the State, there is no necessity to interfere at the present moment under Article 226 of the Constitution of India. However, it is expected that the State would make all endeavour to provide to the petitioners conditions worth living and basic facilities such as sanitation and shelter, which fall within the purview of right to life of the petitioners, irrespective of the petitioner not having any specific legal right to have those. Since the Constitution itself, which is the *grundnorm* of the entire legal set-

up of India, itself guarantees the right to life including the basic amenities which go with such right, this Court hopes and trusts that the State Government, particularly in view of its fair stand as indicated above, shall make endeavour to provide appropriate sanitation as well as shelter and other basic amenities to the petitioners at the place where they are now situated.

It is made clear that this order is passed on humanitarian grounds, keeping in view the sorry plight of the petitioners and the other evicted persons and shall not operate as a precedent in this regard.

Accordingly, W.P.21543 (W) of 2019 is disposed of in the light of the above observations.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)