

15-11-2019
Court No.1
Sh/05.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 267 OF 2019

In Re: Biswanath ShahPetitioner.

Mr. Narendra Nath Das. . . .For the Petitioner.

Mr. Subir Kumar Saha,
Mr. Momenur Rahaman. . . . For the State.

Mr. Bikramaditya Ghosh,
Mr. Paramita Sahu.. . . . For the Zilla Parishad.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The petitioner represented by Mr. Das, learned counsel, submits that he has documents to show that he is occupier of the land in question.

By order dated 7th November, 2019 the Hon'ble Circuit Bench was pleased to direct service of the writ petition on the Jalpaiguri Zila Parisad (JZP).

The JZP was requested to communicate the stand through its learned counsel.

Mr. Ghosh, learned counsel, appears for the JZP and submits that the land records have been examined at the level of the Secretary, JZP and it has been discovered that the land does not belong to the petitioner at all.

Mr. Das, learned counsel, appears for the petitioner and makes a prayer in the writ petition for police investigation. It is submitted that an investigation by filing a complaint under Section 156(3) of the Criminal Procedure was sought by the petitioner.

Having regard to the nature of the dispute raised in this writ petition and, the stand taken by (JZP), this Court is of the view that this is not an issue where an investigation under Section 156(3) can be contemplated.

Accordingly, such prayer on the part of the petitioner is not entertained.

The matter is accordingly remanded to the Secretary, JZP for consideration upon consulting the records and hearing the writ petitioner and any other person or persons, who is entitled to be heard.

The reasoned order of the Secretary shall be communicated to the petitioner as also to the parties heard.

The reasoned order, however, shall not be given effect to for two weeks from the date of its communication to the petitioner and to the parties heard.

The petitioner is directed to add the Secretary of the JZP as a party respondent to this writ petitioner.

Leave is granted to the petitioner to amend the cause title.

WP 267 of 2019 stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties on compliance of due formalities.

(SUBRATA TALUKDAR, J)