

14.10.2020
item No.44
Ct. No.10
Saswata

**WPA 6157 of 2010
with
IA no. CAN 1 of 2020
(CAN 4452 of 2020)
(via video conference)**

**Utpal Paira & anr.
-vs-
The State of West Bengal & Ors.**

Mr. Shibaji Kr. Das
... for the petitioners

Mr. Subhabrata Datta
Mr. Debashis Sarkar
... for the State

Mr. Bharat Ch. Simai
... for private respondent

The petitioner complains that the notice dated July 13, 2020 issued by the Assistant Engineer, Public Works Department, Contai Sub-Division pertaining to invocation of provisions of Section 10 of the West Bengal Highways Act, 1964 is not in accordance with the order dated November 20, 2019.

The State and the private respondent are represented.

Learned advocate appearing for the State draws the attention of the Court to the order dated November 20, 2019 and submits that, the petitioners herein were private respondents in the earlier writ petition. The earlier writ petition

was disposed of by directing respondent no. 2 therein being the Executive Engineer to adjudicate upon the application filed by the petitioner under Section 10 of the Act of 1964 upon giving necessary hearing to all interested parties within six weeks from date and to communicate the decision taken thereon to all the interested parties.

It appears from the records that, the Assistant Engineer, by the impugned order dated July 13, 2020 called upon the writ petitioners, herein, to remove the unauthorized construction. There is an order of the High Court dated November 20, 2019 requiring the respondent no. 2 which is the Executive Engineer, PWD to decide the application of the writ petitioners in WP no. 2511 (W) of 2019.

The Executive Engineer is yet to take a decision in terms of the order dated November 20, 2019. In such circumstances, the impugned notice dated July 13, 2020 will be treated as a show cause notice issued on behalf of the Executive Engineer permitting the addressee to such notice to file any objection, if any. The Executive Engineer will complete the proceeding under Section 10 of the West Bengal Highways Act, 1964 as initiated on the application of the

writ petitioners of WP No. 2511 (W) of 2019 within a period of six weeks from the date of communication of this order in terms of the order dated November, 20, 2019 passed in WP no. 2511 (W) of 2019. The Executive Engineer in the facts of this must decide as he was directed by the High Court to do so.

With the above observations, WPA 6157 of 2020 along with IA No. 1 of 2020 (Old no. CAN 4452 of 2020) is disposed of.

(Debangsu Basak, J.)