

Item No.115

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

18.03.2021
Ct-24

W.P.A.2579 of 2021
Md. Hafiz Mullick

v

The State of West Bengal & Ors.

Mr. Golam Mustafa
Mr. Masum Ali Sardar
Mr. Samirul Sardar
... for the petitioner.

Mr. Ziaul Islam
... for the State.

Sk. Abu Abbas Uddin
Mr. Nahid Rahman
... for the respondent no. 8.

The petitioner complains that the private respondent has increased the level of the Panchayat road in front of his house in Dag No. 1973, Sabek Dag No. 1882, Khatian No. 1121/4, under J.L. No. 45 which has been recorded as "Path" in the record of rights for the use of the general public.

It has been submitted that due to raising of the height of the public road it has become difficult in free egress and ingress of the inhabitants of the said locality.

The petitioner complains that the objection raised against such unauthorized construction has not been considered by the Panchayat authority till date.

The learned advocate appearing on behalf of the private respondents denies the allegation made by the petitioner.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 7, Prodhan, Nababpur Gram Panchayet to consider and dispose of the representation made by the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioner, immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the height of the road has been raised beyond the permissible limit, then necessary

steps shall be taken to deal with such unauthorized construction, in accordance with law.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated January 8, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 2579 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)