

08.07.2021
Sl. No.6
srm

W.P.A. No. 8702 of 2021
Najimuddin Sk
Vs.
The State of West Bengal & Ors.

Mr. M. Chatterjee, Md. G.N. Imrohi	...for the Petitioner.
Mr. Santanu Mitra, Mr. Mirza Kamruddin	...for the State.
Ms. Shabana Hasin	...for the Respondent Nos.7,8&9.

Affidavit-of-service is taken on record.

This writ petition has been filed challenging unauthorised construction by the respondent Nos.7, 8 and 9. The petitioner relies on a reply given by the Pradhan, Paharpur Gram Panchayat, District Murshidabad under the Right to Information Act, 2005. From the said reply, it appears that one Salamat Mondal, who was allegedly making a new construction on plot Nos.108, 109, Mouza-Rawshannagar, did not take any permission from the Gram Panchayat office.

It is prayed by the petitioner that the Panchayat authorities be directed to proceed in accordance with law and take steps against such unauthorised construction.

Mr. Mitra, learned Advocate appearing on behalf of the State-respondents, submits that the police authorities had made an investigation pursuant to a complaint lodged by the

petitioner and a charge sheet has been filed against the respondent No.9 for having committed an offence of erecting a new building without any permission.

Ms. Shabana Hasin, learned Advocate appearing on behalf of the respondent Nos.7, 8 and 9 submits that the reply under the Right to Information Act, 2005 was with regard to a construction by Salamat Mondal and the respondent Nos.7, 8 and 9 do not have any connection with the said person. It is further submitted that the respondent Nos.7, 8 and 9 have had their residential house for more than 50 years and at that point of time there were no rules in existence. No permission for erection of a residential house in the area was required to be obtained.

Mr. Mitra submits that Salamat Mondal and the private respondents are neighbours. The charge sheet has also been filed in the year 2017 against the respondent No. 9 and the trial is in progress.

Be that as it may, the allegations against the respondent No.9, as would appear in the charge sheet filed by the police authorities, are not to be decided in this writ petition. It is a matter of trial. However, as the petitioners have raised an allegation of illegal and unauthorised construction by the respondent Nos.7, 8 and 9, the Panchayat authorities are directed to dispose of the representation dated February 24,

2021 filed by the petitioner. The information under the Right to Information Act, 2005 about the illegal and unauthorised construction of Salamat Mondal will also be taken note of. The disposal of the representation shall be made in accordance with law upon giving an opportunity of hearing to the petitioner as also to the respondent Nos.7, 8 and 9 and Salamat Mondal. If necessary, the State authorities may also be heard for further clarification.

It is made clear that this Court has not decided the dispute and the connection between the respondent Nos.7, 8 and 9 and Salamat Mondal. The entire matter will be decided by the Panchayat authorities on the basis of the papers and the documents which will be filed by the respective parties. The authorities shall act and proceed in accordance with law and pass a reasoned order. If any unauthorised construction is detected by the Panchyata authorities, then proceeding will be initiated as per law.

The entire exercise should be completed within a period of three months from the date of communication of this order

The writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)