

D/L  
Item No. 6  
07.12.2021  
KOLE

**MAT 474 of 2021**  
**With**  
**IA No. CAN 1 of 2021**

**Rahaman Construction repd. by Habibur Rahaman**  
**-Vs.-**  
**The State of West Bengal & Ors.**

*Mr. L. Mondal,*  
*Mr. S. Mukhopadhyay*

*...for the appellant.*

*Mr. Manas Kumar Kundu,*  
*Mr. Sudip Sarkar*

*...for the State.*

*Mr. B. Ghosal,*

*...for the respondent nos. 7 and 8.*

By consent of the parties the appeal and the application are taken up for hearing together.

The writ application of the appellant was dismissed by the learned Single Judge by an order dated March 4, 2021. The contention of the writ petitioner before the learned Single Judge was that pursuant to work order issued in its favour, it constructed a road. Part payment was made by the authorities. Balance payment has been withheld.

The respondents submitted before the learned Judge that the work was not done in accordance with the work order. The learned Judge observed that there are disputed questions of fact which the writ court cannot conveniently adjudicate. The learned Judge relegated the petitioner to the appropriate forum.

Before us the parties have made the same submissions. We have considered the same.

It does not appear to be in dispute that the road has been constructed by the appellant. The objection of the respondent authorities is that the road has been constructed over some private land and not in accordance with the work order.

We are of the opinion that ends of justice will be served if a responsible officer in the administration considers the appellant's claim.

Accordingly, as suggested by the respondents, we grant leave to the appellant to file a comprehensive representation regarding his claim before the respondent no. 6 herein (The Block Development Officer, Murshidabad-Jiaganj Development Block) within a fortnight from date. If such representation is made, the respondent no. 6 shall decide the same in accordance with law and the applicable rules and regulations and dispose of the same by a reasoned order within eight weeks from the date of receipt of the representation after giving an opportunity of hearing to the appellant and any other concerned party who may be affected by the order. The decision so taken shall be communicated to the appellant within a week from the date of the decision. Needless to say, if the respondent no. 6 finds merit in the claim of the appellant, it shall issue necessary instructions so that the appellant receives its legitimate claim. We have not gone into the merits of the case. The respondent no. 6 shall take an informed decision in accordance with law uninfluenced by anything observed in this order.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

**(Arijit Banerjee, J.)**

**( Kausik Chanda, J.)**