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SK
Ct. No. 18
17.05.2021

**W.P.A. No. 10497 of 2021
(Via Video Conference)**

**Jahar Malida & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Sandipan Banerjee ... For the petitioners.

Mr. Pannalal Bandyopadhyay
... For the State respondents.

The petitioners are challenging the notice dated April 27, 2021 under Section 10 (1) of the West Bengal Highways Act, 1964(hereinafter referred to as 'the said Act' in short) issued by the Assistant Engineer, Haldia Highway Sub-Division, PW (Roads), the respondent no. 4 herein, directing removal of structures/obstructions from the Government land to the satisfaction of the Highway officer on or before May 15, 2021.

In terms of sub-section (3) of Section 10 of the said Act after serving a notice under sub-section (1) of the said Act to the person responsible for the encroachment the respondent no. 4 on taking such evidence as he thinks fit shall make an order authorizing the authority or officer to recover possession after removing the encroachment in question.

The respondent no. 4 in the impugned notice has indicated compliance of sub-section (3) of Section 10 of the said Act in the following manner:-

“Any petition/application in this regard may be address with relevant documents of the Sub-Divisional Executive Magistrate/ Haldia Sub-Division, Haldia, Purba Medinipur for final decision as per Highway Act.”

That apart an appeal is provided under sub-section (4) of Section 10 of the said Act to the persons aggrieved by an order of removal of encroachment in the Government land passed under sub-section (3) thereof.

Therefore, a complete mechanism has been provided under Section 10 of the said Act for removal of encroachment from the Government land.

That being the position challenge to the notice under sub-section(1) of Section 10 of the said Act is pre-matured as such the writ petition is dismissed without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)