

14.07.2021
Court No. 19
Item no.8
sn

WPA No. 11015 of 2021

BISWANATH KARMAKAR VS. THE STATE OF
WEST BENGAL & ORS.

(via video conference)

Md. Sarwar Jahan
Mr. Maidul Islam Kayal
....for the petitioner

Mr. Subhajyoti Chandra
..for the respondent no.7

Mr. Mrinal Kanti Mukherjee
..for the respondent nos. 8&9

Mr. Ayan Banerjee
..for the State

This writ petition has been filed challenging an order dated June 21, 2021 issued by the Pradhan, Bhagowanpur Gram Panchayat, the respondent no.6. The petitioner has been directed to demolish the unauthorized constructions in terms of the said notice, failing which, the Panchayat authorities reserved the authority to enforce such demolition.

The only point raised in this writ petition is the competence of the Pradhan to issue such an order of demolition. Reference is made to the provisions of Section 23(6) of the West Bengal Panchayat Act, 1973. It is submitted that the authority who can direct demolition is the concerned Sub-Divisional Officer and such demolition order can only be passed

upon giving an opportunity of hearing to the petitioner.

Mr. Ayan Banerjee, learned Advocate appearing for the State respondents submits that necessary orders may be passed directing the Sub-Divisional Officer to take action in terms of the decision of the Panchayat authorities.

Mr. Chandra, learned Advocate appearing for the Pradhan submits that the Pradhan has complied with the direction of this Court passed on an earlier occasion.

Be that as it may, the Pradhan was directed by this Court to take a decision on the allegations of unauthorised constructions. Accordingly, the decision has been arrived at.

This Court is not interfering with the merits of the decision arrived at but the law provides that the Gram Panchayat should refer the matter to the Sub-Divisional Officer concerned under the provisions of Section 23(6) of the said Act and the Sub-Divisional Officer will proceed in terms of the said provision of law.

Under such circumstances and without going into the merits of claims and counterclaims of the parties, this writ petition is disposed of with a direction upon the Gram Panchayat to forward the decision in terms of Section 23(6) of the said Act,

1973 to the Sub-Divisional Officer and the concerned authority shall dispose of the issue by passing an appropriate order upon hearing the petitioner and the respondent nos. 7, 8 and 9.

The Gram Panchayat authorities shall forward the decision to the Sub-Divisional Officer within a period of two weeks and the decision shall be taken by the Sub-Divisional Officer concerned within three weeks thereafter.

The portion of the order dated June 21, 2021 issued by the Pradhan to the extent of directing demolition is set aside.

This writ petition is thus disposed of.

There will be however no order as to costs.

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

(Shampa Sarkar, J.)