

Item No.94

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

05.02.2021
Ct-24

W.P.A. 8034 of 2020
Samir Kumar Samanta
v
The State of West Bengal & Ors.

Mr. Sayan Chattopadhyay
Ms. Payel Sena
Mr. Subhendu Dutta
... for the petitioner.

Mr. Neil Basu
... for the respondent nos. 11 & 12.

The petitioner alleges illegal and unauthorized construction being made by the private respondents, discharge of medical and bio-medical wastes without proper and adequate treatment in the drain as well as change of user of the premises at Dag Nos. 64/586, 63/584, Mouza- Radhaballavbati, Jamalpur-II Gram Panchayat.

The allegation of the petitioner is that construction has been raised in the said premises without obtaining proper sanction plan. There was permission for construction of a building which is presently being used as a hospital. No permission regarding the change of use of the said building has been granted by the Panchayat in favour of the private respondents.

It is the further case of the petitioner that bio-medical wastes are discharged from the hospital without any treatment in the public drain, which causes water logging in the area. The hospital does not have a proper drainage system.

The petitioner raised an objection by a letter posted to the respondent authorities including the Health and Family Welfare Department, Department of Environment, West Bengal Pollution Control Board, the Pradhan of the Gram Panchayat and the Officer-in-charge of the Jamalpur Police Station on 20th July, 2020.

The petitioner complains that there has been no response to the representation made by him in July 2020.

The learned advocate representing the private respondents submits, upon instruction, that in response to the complaint lodged by the petitioner the officers of the Pollution Control Board inspected the premises in question and directed the petitioner to comply with certain conditions which they have already complied and filed a report of compliance before the Senior Environmental Engineer, West Bengal Pollution Control Board, Durgapur Zone on November, 2020. It has been submitted that right now there is no shortcoming and

the hospital is being run after obtaining proper permission from all the necessary authorities.

Be that as it may, it appears that the officers of the Pollution Control Board inspected the premises in question and found several proof of shortcomings in the running of the said hospital.

In such a situation it would be appropriate to direct the respondent no. 9 that is the Environmental Engineer, Durgapur Regional Office to inspect the premises in question once again within a period of six weeks and to ensure that the hospital is being run after maintaining all the requisite formalities. The inspection shall be made by the respondent no. 9 upon giving proper intimation to the petitioner as well as the private respondents well in advance.

The Pradhan of the Jamalpur-II Gram Panchayat being the respondent no. 8 herein shall consider the complaint made by the petitioner as regards unauthorized construction and change of user of the building in the said premises. The respondent no. 8 shall also inspect the premises upon giving prior notice to the petitioner as well as the private respondents and pass a reasoned order in response to the complaint lodged by the petitioner, strictly in accordance with law, within a period of twelve weeks from the date of communication of a copy of this order. The respondent

no. 8 shall communicate the reasoned order to the petitioner as well as the private respondents immediately thereafter.

The officers of the respondent no. 9 shall continue periodic inspection to ensure that the private respondents do not carry on the functioning of the hospital in violation of the provisions of law.

WPA 8034 of 2020 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.**)