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05.03.2021
TN

WPA 10486 of 2020

(Via Video Conference)

Avirit De and others

Vs.

State of West Bengal and others

Mr. Balai Lal Sahoo,

Mr. Manoranjan Mahato

... for the petitioners.

Mr. Ayan Banerjee

...for the respondent.

Supplementary affidavit filed today be
kept on record.

The primary grievance of the
petitioners is that the private respondents
have been raising construction, thereby
intruding into the petitioners' property, in
contravention of Section 5 of the West
Bengal Religious Buildings and Places Act,
1985. Such provision contemplates a prior
permission of the Collector, if the
construction is made in a District or of the
Commissioner of Police of Calcutta, if within
the city, for raising the same. It is alleged
that the private respondents have not taken

any such permission. By referring to Section 7 of the 1985 Act, learned counsel for the petitioners further argues that the Collector has the power to direct removal of unauthorized construction or conversion in the event of contravention of Section 5 of the Act.

Learned counsel appearing for the State-respondent submits that the police have taken appropriate action on the complaints of the petitioners. However, it is the prerogative of the Collector to decide whether there has been any violation of Section 5 of the 1985 Act. The representation of the petitioners to the District Magistrate/Collector (respondent no.2) is annexed at page 43 of the writ petition.

In view of the allegations made, WPA 10486 of 2020 is disposed of by directing respondent no.2 to decide the representation of the petitioners, being Annexure-P2 at page 43 of the writ petition, as expeditiously as possible, preferably within four weeks from the date of communication of this order to the respondent no.2, upon giving

opportunity to all interested parties including the petitioners and the private respondents to file their representations and/or afford opportunity to them of personal hearing, if deemed necessary by the respondent no.2 for such purpose.

Upon arriving at a decision on such representation, respondent no.2 shall immediately communicate the same to the petitioners as well as to the private respondents. The parties are to act on the communication by learned advocates and/or server copy of this order without insisting on prior production of a certified copy.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)