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***CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION
(Via video Conference)***

W.P.A. 323 of 2021

Sri Biswanath Prasad & Ors.

-vs.-

General Manager (HR/Admn-I)
& Nodal Officer, National Highways
Authority of India & Ors.

Mr. Sabyasachi Mukhopadhyay
Ms. Koushikee Banerjee.

....For the Petitioners

Mr. Bikramaditya Ghosh
Ms. Bedashruti Bose.

....For the State

Ms. Supriya Singh

....For the N.H.A.I.

1. Mr. Sabyasachi Mukhopadhyay, learned counsel for the petitioners has tendered his unconditional apology in the affidavit, filed by him in Court today. The same be kept with the record.
2. This Court is satisfied with the explanation provided by Mr. Mukhopadhyay and condones his earlier action.
3. None appears on behalf of the private respondent in spite of service. Accordingly I draw an adverse inference against the private respondent. Affidavit-of-service, filed in Court today, be kept with the records.

4. This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by the inaction on the part of the respondent authorities in considering the application under Section 26 of the Control of National Highways (Land and Traffic) Act, 2002 dated November 10, 2020.

5. The case of the petitioners is that the private respondent and other local people are occupying in an illegal and unauthorized manner certain portions of land belonging to the National Highways.

6. I have heard counsel appearing for the petitioners and on behalf of the National Highways and the State and perused the materials on record. In my view, this matter should be sorted out properly by the authority concerned.

7. In view of the above, I direct the Superintending Engineer, National Highway Circle No.III, P.W.Roads Directorate, Matigara, Darjeeling to grant an opportunity of hearing to the petitioners and the other relevant respondent and thereafter pass a reasoned order within a period of four weeks from the date of communication of this order. The reasoned order be communicated to the petitioners within a week of passing of the same.

8. With the above direction the writ petition is disposed of. There will be no order as to costs.

9. Since no affidavit-in-opposition is called for, the allegations made in the writ petition are deemed not to have been admitted.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)