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22.08.2022  
d.p.

**In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

**W.P.A 46 of 2022**

**Ashok Kumar Sharma  
-versus  
The State of West Bengal & Ors.**

**Mr. Musharaf Alam Sk.,  
Ms. Susmita Ghorai.  
...For the Petitioner.**

**Mr. Tarun Kumar Ghosh,  
Mr. Avishek Prasad.  
...For the State.**

**Mr. Pradip Paul,  
Mr. Gourab Ghosh.  
...For the Respondent No.9.**

Learned advocate for the private respondent No.9 submits that he has filed Vakalatnama in the department vide filing No. A-15741 dated 22<sup>nd</sup> August, 2022. The department is directed to tag the same with the records.

The petitioner alleges illegal and unauthorized construction at the instance of the respondent No.9, Harihar Sharma.

The petitioner filed a representation before the Pradhan, Samsi Gram Panchayat on 17<sup>th</sup> December, 2021 and alleges that the same has not been taken up for consideration till date.

Learned advocate appearing for the respondent No. 9 submits that a plan has been sanctioned in his favour by the Panchayat but in view of the complaint filed by the petitioner herein, the Pradhan of the Gram Panchayat directed the private respondent to appear for a hearing and thereafter, further notice was issued upon the private respondent to stop construction work.

The said private respondent was compelled to approach this Court by filing a writ petition being WPA 10653 of 2021 (Harihar Sharma -vs- The State of West Bengal & Ors.) which was disposed of by this Court on 28<sup>th</sup> June, 2021 directing the Pradhan of Samsi Gram Panchayat to take steps for taking a decision with regard to the objection filed by the petitioner herein after giving necessary opportunity of hearing to the parties.

It has been submitted by the learned advocates for the parties that the order of the Court is yet to be complied with by the Pradhan.

Learned advocate appearing for the private respondent submits that a contempt application being CPAN 741 of 2021 is pending before this Court.

It appears that the Pradhan of the Gram Panchayat is yet to take a decision with regard to the representation filed by the parties. Neither the representation of the petitioner nor the representation of the private respondent has been taken up for consideration till date.

Accordingly, the Pradhan of Samsi Gram Panchayat being the respondent No. 4 herein is

directed to take steps to consider the representation filed by the petitioner on 17<sup>th</sup> December, 2021, strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date communication of a copy of this order.

The Pradhan shall take into consideration the claim as well as the counter claim of the parties and also take steps to comply the direction passed on 28<sup>th</sup> June, 2021 in WPA 10653 of 2021.

The Pradhan is directed to give a reasonable opportunity of hearing to the parties to defend their case.

A reasoned order shall be passed and communicated the same to the parties immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The Panchayat Authority will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without a sanctioned plan.

The petitioner is directed to forward a copy of the representation dated 17<sup>th</sup> December, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The report filed by the Inspector-in-charge, Ratua Police Station be retained with the records.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**( Amrita Sinha, J.)**