

13.
02.05.2022
S.D.

W.P.A. 2635 of 2021

**Gokul Bera & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Nayabb Mullah
Mr. A.S. Samad

..For the petitioners.

Ms. Sipra Majumder
Ms. Prativa Ghatak

..For the State.

Ms. Payel Ghosh

...For Respondent No. 7.

Mr. Asif Hussain
Ms. Arpita Pahari

...For Respondent Nos. 8 & 9.

The postal articles containing the service of notice upon the respondent nos. 8 and 9 has come back with the endorsement 'refused'. The Pradhan is present in court.

The petitioners allege that the respondent nos. 8 and 9 have made unauthorized construction on plot nos. 712 and 713 of Mouza-Krishnagar pertaining to J.L. No. 74. It is contended that the said plots have been recorded as a pond in the record of rights and the construction had been made without any order of conversion of the said land by the appropriate authority. Reliance has been placed on the information supplied to

petitioners under the Right to Information Act. The petitioners approached the competent authority alleging such unauthorized construction, but the authorities have not acted and proceeded in accordance with the law. Hence the writ petition.

Mr. Hussain, learned advocate appearing on behalf of the respondent nos. 8 and 9 submits on instruction, that the construction has been made upon obtaining due sanction from the authorities and after conversion of the said land. He further submits that a proceeding is pending before the West Bengal Land Reforms and Tenancy Tribunal in this regard.

Learned advocate for the Panchayat authorities submits that the records do not reveal as to whether any conversion had taken place and thereafter whether any permission had been granted for such construction. It is submitted that the Panchayat authority shall proceed on the basis of the complaint of the petitioners.

Without going into the merits of the claim and counter-claim of the parties, this writ petition is disposed of with the direction upon the competent authority of the Guabaria Gram Panchayat to act and proceed in accordance with law by disposing of the representation of the petitioners made through their learned advocates dated January 15, 2021, to its logical

conclusion. While doing so, the competent Panchayat authority shall adopt the following method:-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 8 & 9 and all other interested parties. Advance notice of the inspection shall be served upon the petitioner and the respondent nos. 8 & 9. If the parties are not available to accept notice, the authority shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authority may take such interim measures by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent nos. 8 & 9. The parties must also be allowed to furnish their written objection/version to the said report

and adduce oral and documentary evidence in support of their contentions, before the competent authority. All documents relied upon by the respective parties shall be exchanged.

f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The question of title, boundary dispute shall not be decided by the panchayat authority.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)