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05.05.2022
S.D.

W.P.A. 2286 of 2022

**Sri Sk. Nazrul Haque
Vs.
Saraitikar Gram Panchayat & Ors.**

Mr. Iftekar Munshi

..For the Petitioner.

Mr. Bhaskar Prasad Vaisya

Mr. Mrinal Kanti Ghosh

..For the Respondent Nos. 3 to 5.

Mr. Syed Nasirul Hossain

..For Respondent No. 6.

Learned advocates for the respondent nos. 3 to 6 are present in Court. None appears on behalf of the respondent no. 2.

The petitioner alleges that the respondent no. 6 has raised certain unauthorized constructions, without any permission or approval from the Panchayat authority on Dag Nos. 135 and 136 measuring about 17 decimal and 5 decimal respectively, of Mouza Krishnapur pertaining to Khatian No. 194, J.L. No. 43. The petitioner submits that several complaints have been lodged with the authorities, but the authorities have not taken any steps in this regard. Further allegation is that there have been earlier instances

of unauthorized constructions which were subsequently removed by the respondent no. 6.

Records reveal that the petitioner has approached the Saraitikar Gram Panchayat through his learned advocate by filing an application dated November 10, 2021.

Mr. Hossain, learned advocate appearing on behalf of the respondent no. 6 submits that a sanction has been granted by the competent Panchayat authorities for construction of a building. He further submits that the allegation of encroachment cannot be gone into either by this Court or by the Panchayat authorities. According to Mr. Hossain, all the constructions which have been complained of, have been done in accordance with law.

Be that as it may, as there is an allegation of unauthorized construction and there is also a confusion with regard to the sanction which appears to have been granted in respect of L.R. Plot No. 139, this Court is of the view that the representation/complaint of the petitioner must be disposed of by the authority concerned.

Accordingly, the competent authority of the Saraitikar Gram Panchayat must dispose of the representation of the petitioner made through his learned advocate dated November 10, 2021, in accordance with law and reach the

same to its logical conclusion in terms of Section 23 (5) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the said Act).

While doing so, the following procedure shall be adopted.

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 6 and all other interested parties. Advance notice of the inspection shall be served upon the petitioner and the respondent no 6. 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 no. 6. 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, keeping in mind the provisions of Section 23(5) of the said Act.

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

