

23.11.2022
Court No. 19
Item no.391
CP

W.P.A. No. 4071 of 2022
Gouri Sankar Jalal
Vs.
The State of West Bengal & Ors.

Mrs. Priyanka Jana
.....for the petitioner.

Mr. Pantu Deb Roy
Mr. Ananda Farmania
....for the State.

Despite service, none appears on behalf of the respondent nos. 5 and 7.

As the Court is not inclined to pass mandatory directions against the said respondents, but is relegating the entire dispute for adjudication by the competent authority under the law, the writ petition is taken up in their absence.

The petitioner alleges that the respondent no. 7 had raised an unauthorized construction on L.R. Plot No. 1589, J.L. No. 109 at Mouza – Abhirampur. The petitioner raised an objection before the Pradhan, Gelia Gram Panchayat, but no steps were taken by the authority. When the repeated representations of the petitioner were not considered, the petitioner through his learned advocate filed a demand of justice which is Annexure P-4 at page 17 of the writ petition.

This court is of the view that the said demand of justice which contains the complaint of the petitioner,

must be disposed of by the permission granting authority, i.e., the gram panchayat, by adhering to the following procedure:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 7. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 7 and on all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the 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 authorities 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. 7. 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 points raised by either party, will be decided.

- 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 Section 23(5) of the West Bengal Panchayat Act.

The court has not gone into the merits of the claims.

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

The question of title, possession, boundary etc. shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities, would be whether the construction had been made without any permission and/or in violation of the building rules and the relevant laws.

A copy of the writ petition along with a server copy of this order be served upon the concerned

gram panchayat for necessary compliance 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 server copy of this order.

(Shampa Sarkar, J.)