

26.04.2022
Item No.04
Court No.6.
S. De

**M.A.T. 408 of 2022
I.A. No. CAN 1 of 2022**

**Sri Anup Kumar Ganguly.
Vs
The State of West Bengal & Ors.**

Mr. Haradhan Banerjee,
Mr. Amitava Paine,
Ms. Manideepa (Paul) Roy,
Mr. Partha Pratim Mukhopadhyay,
...for the appellant.

Mr. Atis Kumar Biswas,
Mr. Soumyajit Bhatta,
Mr. Suman Chakraborty,
...for the respondent no.6.

Mr. Rajendra Chaturvedi
...for the Municipality.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

The appellant approached the learned Single Judge by way of W.P.A. 15661(W) of 2017 with the grievance that the private respondent no.6 had filled up a pond under Dag No. 7003, Khatian No.1651 in Mouza-Rishra within the jurisdiction of Rishra Municipality and had made unauthorized construction thereon. Complaints made under the Inland Fisheries Act, 1984 and the West Bengal Municipal Act, 1993 did not yield any result.

The learned Judge found that the writ petitioner had not made any formal complaint. However, proceedings have been initiated by the Rishra Municipality on the basis of complaint received from one Kanti Gangully. Accordingly, the learned Judge dismissed the writ petition but granted liberty to the writ petitioner to make complaint to the appropriate authority regarding any unauthorized construction by filling up pond. It was further observed that if such complaint is lodged by the writ petitioner within a fortnight before the concerned authority of Rishra Municipality as well as the Department of Fisheries, such authorities shall take steps on the basis of such complaint in accordance with law.

Before us, the writ petitioner/appellant says that the learned Judge could not be properly assisted. In fact, the appellant has made a complaint dated June 7, 2017 addressed to the Assistant Director of Fisheries, Fisheries Department, Government of West Bengal.

Be that as it may, the primary prayer of the appellant is that the proceedings initiated by the Rishra Municipality in respect of the authorized construction said to have been made by the private respondent by filling up pond, should be carried to its logical conclusion and concluded at an early date.

Having heard learned counsel for the parties, we direct the Rishra Municipality to conclude the proceedings that the Municipality has initiated and if the Municipality has received any complaint from the present appellant, the Municipality shall also grant an opportunity of hearing to the present appellant prior to concluding the proceedings. We have not gone into the merits of the matter. It will be up to the Rishra Municipality to take an informed decision in accordance with law. Such decision should be taken within a period of twelve weeks from the date of communication of this order to the Executive Officer who, we are told is looking into the matter. The decision so taken shall be communicated to the concerned parties within a week from the date of the decision. Needless to say, if the Municipal authority finds that unauthorized construction has been made by filling up pond, appropriate remedial measures will be taken by the Municipality and to that end, appropriate directions shall be issued by the Municipality to the concerned persons.

The present appellant will be at liberty to make a comprehensive representation to the Executive Officer of the Rishra Municipality within a week from date. If such representation is made within the time period indicated, the Executive Officer will consider the same

and grant an opportunity of hearing to the appellant before coming to a final conclusion in the matter.

MAT 408 of 2022 is, accordingly, disposed of along with the connected application being IA No. CAN 1 of 2022.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)