

06.09.2022
Court. No. 19
Item 14 (DL)
Cp

W.P.A. No. 11605 of 2021

Shrabani Banerjee & ors.
Vs.
The State of West Bengal & Ors.

Mr. Jaharlal Ray
Ms. Kavita Rani

... for the petitioners.

Mr. P. K. Gupta
Mr. S. Nasar
Mr. Santanu Sett

... for the respondent no.5.

Ms. Chaitali Bhattacharya
Ms. Sanjukta Samanta

...for the State.

The petitioners allege that an illegal construction had been made by the respondent no. 5. It is also the contention of the petitioners that the construction is on their land. The allegation is that the panchayat authorities ought to have taken action against such unauthorized construction. The petitioners also allege that there is no permission from the appropriate authority for such construction.

The learned advocate for the respondent no. 5 submits documents to show that the said respondent, is a beneficiary under the PMAY Scheme and the construction has been done on the basis of the sketch

map, which had been provided by the authority in terms of the scheme.

As the dispute is whether the respondent no. 5 had complied with all the requirements under the scheme and as there is a denial of the right, title and interest of the respondent no. 5 in respect of the land on which the structure has been erected, this is not simpliciter a case of unauthorized construction.

Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules 2004 specifically exempts construction under any government scheme, from the strict application of the rules.

Under such circumstances, the petitioners are granted leave to approach the concerned District Magistrate, South 24 – Parganas with their allegations of alleged illegality in enlisting the respondent no. 5 as a beneficiary under the said scheme.

If such complaint is filed, the same shall be disposed of in accordance with law upon hearing the petitioner, the respondent no. 5, the nodal officer of the scheme, the gram panchayat authorities and all other interested parties.

While deciding the issue, an inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no 5. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 5 and all

other interested parties. A report shall be prepared. Such report shall be handed over to the parties.

Parties shall be heard and a reasoned order shall be passed and communicated to the parties. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of receipt of the representation/complaint.

None of the issues have been decided on merits. All questions which have been raised including the question as to whether the construction has been made as per the sketch plan provided to the respondent no. 5, and whether the respondent no. 5 was rightly included in the list of beneficiaries, shall be decided by the District Magistrate in accordance with law and independently.

All actions taken, shall abide by the order of the District Magistrate and law will follow its own course, in respect of such construction.

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.)