

S/L 28
22.09.2022
Court. No. 19
GB

W.P.A. 10250 of 2022

Ajit Naskar
VS
The State of West Bengal & Ors.

*Sk. Abu Abbas Uddin,
Mr. Nahid Rahman.*

...for the Petitioner.

*Mr. Susanta Pal,
Mr. Prabir Kumar Ray.*

...for the State.

*Ms. Monjuli Chowdhury,
Ms. Mekhla Sinha.*

...for the Zilla Parishad.

Affidavit-of-service filed in Court today, be kept with
the record.

Heard the learned advocates for the respective
parties.

It is submitted by Ms. Chowdhury, learned advocate
for the Zilla Parishad that the permission granting authority,
in this case would be the Howrah Zilla Parishad, as the area
over which the construction is being made, falls within the
jurisdiction of K.M.D.A.

It appears that the petitioner has not approached the
Zilla Parishad, with the allegation of unauthorized
construction.

The writ petition is disposed of granting liberty to the
petitioner to file an appropriate representation with details
of the allegation of unauthorized construction before the
concerned authority. If such representation is filed, the same
shall be disposed of in accordance with law by observing the
principles of natural justice and upon granting adequate

opportunity to all persons interested in the construction to represent their case by filing their written versions/objections to the complaint. If the Zilla Parishad is of the opinion that the relevant gram panchayat would be the competent authority, in that case the representation shall be forwarded to the gram panchayat.

The following procedure shall be adopted by the competent authority, whoever the same may be.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.9 to 15. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.9 to 15 and 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 had been 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. The question of right, title and possession shall not be decided by the panchayat authorities.

- e) A hearing shall be given to the petitioner and the respondent nos.9 to 15. 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 accordance with law.

The court has not gone into the merits of the claims of the petitioners and the issues involved shall be decided independently.

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

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.)