

06.09.2022
Sl. No.33
srm

W.P.A. No. 12103 of 2021
Sk. Samsu Alam & Ors.
Vs.
The State of West Bengal & ors.

Mr. Ziaul Haque
.....for the Petitioners.

Mr. Raja Saha,
Mr. Amit Kumar Ghosh
.....for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.7, 8 and 10 to 16.

As the Court is not inclined to entertain the writ petition on merits but deems it fit to relegate the matter before the authority under the provisions of Section 23 of the West Bengal Panchayat Act, 1973, to decide the issue of unauthorized construction, the writ petition is disposed of in their absence.

The petitioners allege that the respondent Nos.10 to 16 have raised some constructions on LR Plot No.70 of mouza Babua, District-Purba Medinipur without any permission from the Amalhandra Gram Panchayat, District-Purba Medinipur. A complaint was lodged before the

authorities including the concerned gram panchayat dated May 11, 2021. Allegation is that the said complaint was not considered by the gram panchayat.

Under such circumstances, the writ petition is disposed of with a direction upon the concerned gram panchayat to consider the grievance of the petitioners in terms of the representation dated May 11, 2021 and pass a reasoned order in accordance with law. While doing so, the gram panchayat shall adhere to the following procedures:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all interested parties, with 48 hours advance notice to the petitioners and all interested parties and also the respondent Nos.10 to 16.
- b) The report of the inspection shall be prepared along with the sketch map, indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioners as also the interested parties.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and is continuing, the authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to the petitioners and all other interested parties. 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.
- 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 provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)