

05.09.2022
Court. No. 19
Item 14 (ML)
Cp

W.P.A. No. 10937 of 2022

Debasis Nayak
Vs.
The State of West Bengal & Ors.

Sk. Jayed Hossain
... for the petitioner.

Mr. Rajib Kumar Acharyya
Mr. Banshi Badan Maity
... for the respondent nos. 9 to 11.

Mr. Malay Singh
Mr. Domingo Gomes
...for the State.

The petitioner alleges unauthorized construction. According to the petitioner, the construction has been made without a sanction plan and without conversion of the land from 'Jal' to 'Bastu'. Violation of mandatory rules has been alleged. A complaint has been filed before the Pulsita Gram Panchayat. Although the learned advocate for the petitioner approached the authorities, no action had been taken. The petitioner is also apprehending that justice would not be done, as a relative of the respondent nos. 9 to 11 is attached to the concerned gram panchayat.

Without going into the merits of the claims of the respective parties, the writ petition is disposed of by

allowing the petitioner to file a comprehensive complaint with his allegations before the concerned gram panchayat. The concerned gram panchayat shall dispose of the same in accordance with law and independently.

While doing so, the following procedure shall be adopted:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 9 to 11. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 9 to 11 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 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 nos. 9 to 11. 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 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 comprehensive complaint.

The question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities, would be whether the construction has been made without any permission

and/or in violation of the building rules and the relevant laws.

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.)