

25.01.2022
Sl. No. 14

ss

**W.P.A. 13223 of 2021
(Through Video Conference)**

**Soumen Das & anr.
Vs.
The State of West Bengal & ors.**

Mr. Soumen Bhattacharjee
...for the Petitioners.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kuamr Nag
... for the State

Mr. Nilanjan Bhattacharjee
... for the respondent no.8

Ms. Monjuli Chowdhury
Ms. Kekhla Sinha
... for the Howrah Zilla Parishad

Affidavit of service filed in Court is taken on record.

Despite service none appears on behalf of the respondent nos.4
and 5.

The petitioners are aggrieved by the inaction on the part
of the District Engineer, Howrah Zilla Parishad in disposing of
the complaint of the petitioners dated June 22, 2021.

It is submitted by the petitioners that the respondent
nos.8 to 10 have made some unauthorised constructions which
have encroached into the canal situated by the side of
Alampur to Howrah road. According to the petitioners, the
said canal serves as a major drainage for the locality under
Mashila Gram Panchayat and due to such unauthorised

construction of the commercial building, the canal is getting blocked. It is submitted that the Howrah Zilla Parishad, being the sanctioning authority ought to ensure that the constructions of the respondent nos.8 to 10 are restricted to the plan sanctioned by the authority and the open spaces are not covered.

Mr. Nilanjan Bhattacharjee, learned Advocate appearing on behalf of the respondent no.8 submits that the writ petition is not maintainable as the petitioners have alleged that the construction has affected the local villagers and as such, the petitioners ought to file a Public Interest Litigation.

Mr. Bhattacharjee further submits that the construction has been made in accordance with the plan sanctioned by the authorities concerned.

Ms. Chowdhury, learned Advocate appearing on behalf of the Howrah Zilla Parishad submits that the sanctioning authority is the Howrah Zilla Parishad. The Zilla Parishad shall look into the complaint filed by the petitioner and dispose of the same in accordance with law.

Having heard the rival contentions of the parties, this writ petition is disposed of with a direction upon the District Engineer, Howrah Zilla Parishad to dispose of the complaint of the petitioners dated June 22, 2021 in accordance with law by granting an opportunity of hearing to all the parties

including the respondent no.8 and also the Gram Panchayat authorities. Before such hearing is granted, an inspection of the construction made by the respondent nos.8, as also the area/site shall be held by the authority in the presence of the parties. 48 hours advance notice shall be given to the parties. An inspection report shall be prepared along with the sketch map in order to show whether there are any unauthorised constructions or violation of the plan. The parties shall be allowed to file their written objection/notes of arguments at the time of hearing. A reasoned order shall be passed and communicated to all the parties.

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

This Court has not gone into the merits of claim and counter-claim of the parties and questions of title and boundary disputes shall not be looked into by the Howrah Zilla Parishad. The proceeding shall be restricted to the allegations of alleged unauthorised construction by the respondent no.8 thereby blocking the canal. The authority will decide whether any construction has been made in violation or deviation of the building plan or in violation of the building rules.

With the above directions, this writ petition is disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)