

S/L 22
05.09.2022
Court. No. 19
GB

W.P.A. 12404 of 2022

Sitram Barasia
VS
The State of West Bengal & Ors.

*Mr. Abhijit Basu,
Mr. Partha Sarkar.*

...for the Petitioners.

*Mr. Amit P. Lahiri,
Mr. S.P. Lahiri.*

...for the State.

Mr. Prabir Majumder.

...for the Respondent No.12.

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

The petitioner alleges unauthorized construction by the respondent no.12. According to the petitioner, the construction has been made without requisite permission and also in violation of the rules. According to the petitioner, the construction has been extended beyond the permissible area. The mandatory spaces have not been kept vacant. The learned advocate for the petitioner submits on instruction that the Pradhan of the concerned Gram Panchayat is in custody.

Learned advocate for the respondent no.12 submits that the construction has been made strictly in accordance with the permission granted by the panchayat authority.

In view of the disputed questions of facts, this Court is not in a position to decide the issues. The authority empowered by law to determine such issues shall have to take action on the basis of the complaints filed by the

petitioner, upon making an enquiry. The petitioner had filed several complaints before the Karimpur-I Gram Panchayat being Annexure-P/2 and Annexure-P/3 respectively. The concerned authority shall dispose of the same in accordance with law.

While disposing of the complaint, the following procedure shall be adhered to:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 12 within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent no.12.

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 no.12. 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, shall 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 the statute.

A copy of the writ petition shall be served in the office of the concerned Gram Panchayat for necessary compliance of the this order.

This Court has not gone into the merits of the claims and counter-claims of the parties. The entire issue shall be decided by the concerned authority independently.

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

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 learned advocates' communication.

(Shampa Sarkar, J.)