

05.09.2022
Sl. No.27
srm

W.P.A. No. 14332 of 2022
Smt. Karabi Mondal & Anr.
Vs.
The State of West Bengal & ors.

Mr. Narayan Chandra Mandal,
Ms. Anushika Bharati

....for the Petitioners.

Mr. Rajarshi Basu,
Mr. S.T. Mina

.....for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.6 and 7.

The petitioners allege unauthorized construction of a two-storeyed building by the respondent No.7. The petitioners submit that the Pradhan of Chandpur Gram Panchayat furnished an information dated Jun 23, 2022, *inter alia*, stating that the no housing plan of Mr. Dinesh Chandra Baidya alias Habul Baidya of village Shikharpur, had been sanctioned for construction on Dag No.1387.

This court has not entered into the merits of the allegations. The concerned gram panchayat shall dispose of the complaint of the petitioners dated May 25, 2022, being annexure P/4 to the writ petition, in accordance with

law. The consideration shall be restricted only to the allegation of construction in the absence of a sanction, by one Dinesh Chandra Baidya. No other issue shall be decided. The issues with regard to the right, title, interest, encroachment, etc. shall not be decided by the authority.

The Court has not decided the issues on merits, but relegates the matter, for a decision by the authority under the provisions of Section 23 of the West Bengal Panchayat Act, 1973. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the respondent Nos.6 and 7, with 48 hours advance notice to the petitioners and the respondent Nos.6 and 7.
- 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 respondent Nos. 6 and 7.
- 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 all the 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.)