

05.09.2022
Sl. No.29
srm

W.P.A. No. 15080 of 2022
Jawed Alam
Vs.
The State of West Bengal & ors.

Mr. Nitai Chandra Saha,
Mr. Abhijit Chandra Majumder
.....for the Petitioner.

Mr. Sudipta Panda,
Ms. Munmun Tewary
.....for the State-respondents.

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

It is the contention of the petitioner that the respondent Nos.6 and 7 have been raising an unauthorised construction.

The records do not reveal that the petitioner has filed an appropriate complaint before the concerned gram panchayat.

Under such circumstances, the writ petition is disposed of, granting liberty to the petitioner to approach the concerned gram panchayat in accordance with law with specific allegations. Vague and omnibus allegations shall not be permitted. If such specific allegations are

made, the same shall be disposed of in accordance with law by the concerned gram panchayat. The question of title, possession, encroachment, etc. shall not be gone into. The allegation of violation of the order of the civil court shall also not be gone into. The concerned authority shall only adjudicate whether any kind of construction has been made without any permission.

The Court has not decided the issue on merits but relegates 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 all parties, with 48 hours advance notice to the petitioner 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 petitioner 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 petitioner and 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 West Bengal Panchayat Act, 1973.

The entire exercise shall be completed within a period of four months from the date of receipt of the application of the petitioner.

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.)