

01.02.2022
rc/ct.no.10
Item No.25

WPA No. 17021 of 2021
Kamal Das
Vs.
State of West Bengal & Ors.

Mr. Amitabha Ghosh
Mr. Haripada Nayak
Mr. Madan Mohan Roy ...for the petitioner

Mr. Soumitra Bandyopadhyay
Mr. S. Bandyopadhyay ...for the State

Affidavit of service filed in Court today be taken on record.

It is contended by the learned counsel appearing on behalf of the petitioner that an earlier writ petition being WPA No. 3998 of 2021 was filed before this Court alleging unauthorised construction by filling up of a pond by the present writ petitioner and by an order dated September 13, 2021 this Court directed the concerned authority to complete the entire proceeding including demarcation of the pond in question within a period of three months from the date of the order. In compliance with the said order, the concerned authority issued notice under Section 10 of the West Bengal Highways Act, 1964 (hereinafter referred to as "the said Act") upon the writ petitioner on September 15, 2021 directing the petitioner to remove unauthorised construction over PWD land. The said notice is challenged before this Court in the present writ petition.

It is submitted by the learned counsel appearing on behalf of the State-respondents that the petitioner shall be given opportunity of hearing by the concerned authority under Section 10 of the said Act before any act of demolition is undertaken by the authority.

It is trite law that the provisions under Section 10 of the said Act grant liberty to the petitioner to place his case before the concerned authority and submit documents in support of his contention.

As proceeding under Section 10 of the said Act has already been initiated, the concerned authority being respondent no. 4 is directed to conclude the proceeding within a period of three months from the date of communication of this order after giving reasonable opportunity of hearing to the petitioner and all other interested parties, in accordance with law.

It is made clear that this Court has not gone into the merits of this case and the petitioner shall be at liberty to raise all issues as contended in the writ petition before the authority at the time of hearing.

With the above observations and directions this writ petition being WPA No. 17021 of 2021 is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)