

05.09.2022
Court. No. 19
Item 38 (ML)
Cp

W.P.A. No. 17071 of 2022

Arun Kumar Mondal
Vs.
The State of West Bengal & Ors.

Mr. Ziaul Haque
... for the petitioner.

Mr. Rama Prasad Sarkar
Ms. A. D. Jana
...for the State.

Despite service none appears on behalf of the respondent no. 6.

It is the contention of the petitioner that the respondent no. 6 has made a construction without a sanction plan and in violation of the rules.

Without going into the merits of the claim of the petitioner, the writ petition is disposed of with a direction upon the Chaluary Gram Panchayat to dispose of the complaint of the petitioner in accordance with law. While doing so, the following procedures shall be adopted:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 6. An advance notice of the inspection shall be served upon the petitioner and the respondent

no. 6 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.

- 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 nos. no. 6. 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, will 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 Section 23 of the West Bengal Panchayat Act. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

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

The question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities would be whether the construction has been made without any permission and/or in violation of the building rules.

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 server copy of this order.

(Shampa Sarkar, J.)