

16.3.2022
Court No. 19
Item no.23
sn

WPA 18288 of 2021

Noor Islam Laskar & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Rafiqul Islam Sardarfor the petitioners

Mr. Manik Das
..... for the respdt.nos. 9-11

Ms. Manjuli Chowdhuri
Ms. Mekhla Sinha
..for the Howrah Zilla Parishad

Mr. Sudipta Panda
Ms. Mun Mun Tewari
..for the State

The petitioners have alleged that the respondent nos. 9 to 11 have made certain unauthorised constructions without obtaining proper permission from the Howrah Zilla Parishad. The said construction has allegedly been made on L.R. Dag No. 1915 pertaining to L.R. Khatian No. 1373/2, Mouza Sankrail, Police Station Sankrail, forcefully and without following the due process of law.

Mr. Das, learned advocate for the respondent nos. 9 to 11 submits that no construction has been raised in recent times. That the construction standing on the premises are relatively old and have been constructed in accordance with law.

Mrs. Chowdhury, learned advocate for the Zilla Parishad submits that the Zilla Parishad shall proceed in accordance with law.

It appears that the petitioners have lodged several complaints before the various authorities. The complaint lodged before the District Engineer, Howrah Zilla Parishad is undated.

Under such circumstances, this writ petition is disposed of with a direction upon the District Engineer, Howrah Zilla Parishad to act and proceed in accordance with law on the basis of the complaint lodged and reach the same to its logical conclusion, by the following procedure stated herein below:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.9-11 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.9-11 and all other interested parties. If the parties are not available to accept notice, the authorities shall affix the notice of hearing and inspection at conspicuous places in their 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 petitioners and the respondent nos. 9 to 11. 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 the statute.

The question of title and boundary disputes will not be considered by the Zilla Parishad. Consideration shall be restricted to the allegations of unauthorized constructions, that is, whether the construction is either in deviation of the plan or in the absence of the plan.

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

The petitioners are directed to serve a copy of the writ petition along with a server copy of this order upon the District Engineer, Howrah Zilla Parishad, for necessary action.

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

Parties are to act on the server copy of this order and/or learned advocate's communication.

(Shampa Sarkar, J.)