

August 30, 2022
AD 25
Court No.1
SG

WPA(P) 368 of 2022

Biplab Kumar Chowdhury

vs.

The State of West Bengal and others

Mr. Bhaskar Prosad Banerjee,
Mr. Parashar Baidya, Advocates

... for the petitioner

Mr. Jaharlal De,
Mr. Supratim Dhar, Advocates

... for the State

Mr. Sudarsan Roy,
Mr. Debayan Ghosh, Advocates

... for the North Dum Dum Municipality

The grievance raised in this public interest petition is that illegal construction has been raised by the third parties on the vested land and the said illegal construction is being used for the commercial purpose.

Learned counsel for the petitioner has pointed out that this is the second round of litigation and earlier the petitioner had filed WP 6373 (W) of 2020 which was disposed of by this Court by order dated 16.09.2020 directing the added respondent No.9 therein (respondent No.3 herein) to decide the petitioner's representation in the form of the writ petition after giving opportunity of hearing to all the affected parties and if the said respondent finds substance in the allegation of the petitioner, then to take appropriate steps to ensure that the Government property is duly protected and not exploited illegally by third parties.

Learned counsel for the petitioner has also pointed out that subsequently the proceeding was initiated by the said

respondent being the Additional District Magistrate & District Land & Land Reforms Officer, North 24 Parganas, Barasat on 27.09.2021 had passed the following order:

“From the observations made above, the following inferences may be drawn:

- A. The land in question was acquired by the State for the purpose of construction of Railway Over Bridge (ROB) and it is implied that the PWD Department was the Requiring Body.
- B. Presently, the said land is being used as Bus Terminus which is also for public purpose and PWD Department puts no objection against such use of land.
- C. No other third party encroachment over the land in question has been reported in any of the (illegible) the BL&LRO, Barrackpore-II or the SDO, Barrackpore.
- D. As per enquiry report of the SDO, Barrackpore, the construction of the building has been made over the toilet.
- E. It appears from the documents submitted by the North Dumdum Municipality that the proposal for construction of the Latrine, Bathroom and Waiting Room had been made using the fund of MP LAD as initiated by the then District Magistrate, North 24 Parganas, in the year of 2014. It is obvious that Government fund has been utilized to construct a structure over the Government land. The then District Magistrate, North 24 Parganas,

informed the whole matter to the then Chairman, North Dumdum Municipality.

- F. The North Dumdum Municipality has categorically admitted that no sanction plan for the construction of the building has been accorded by them to the PWD Department though it has not been clear whether the 'sanction plan' implies to give sanction only to the building made over the latrine or including latrine. However, it transpires that the building constructed already over the latrine has no valid sanction plan issued by the North Dumdum Municipality.

From the discussion made above, it transpires that no third party encroachment has been made on the landed area of the area in question. Rs.Three lakhs only was sanctioned from the Government fund to build up the latrine over the Government land. However, it is not known who has constructed the building over the latrine without any valid building plan. The land appears to be owned by the PWD, but, no objection has been put by them during hearing. North Dumdum Municipality is the local body having the authority to see to the matter of unauthorized construction under due provisions of the West Bengal Municipal Act, 1993 and Rules therein.

Hence, keeping in view on every aspect of the case, North Dumdum Municipality is hereby directed to take necessary measures against the unauthorized building made over the latrine, existing in a part of the Birati-

BBD Bag Mini Bus Terminus, under due provisions laid down in the West Bengal Municipal Act, 1993 and Rules therein. North Dum Dum Municipality is also directed to take up the matter with PWD Department before initiation of the said proceedings.

Thus, the solemn order of the Hon'ble Court has been complied with and the case is disposed of.

Certified copy of this order may be collected after maintaining due procedure.

Additional District Magistrate &
District Land & Land Reforms Officer
North 24 Parganas, Barasat"

In terms of the aforesaid order, North Dum Dum Municipality is required to take necessary measures against the unauthorised building which has been constructed over the latrine, existing in a part of the Birati-B.B.D Bag Mini Bus Terminus.

Learned counsel for the State has produced the communication dated 04.08.2022 sent by the Executive Engineer, PWD, Kolkata, North Division to the Chairman, North Dum Dum Municipality clearly stating that the PWD does not have any objection for taking necessary action by North Dum Dum Municipality under due provisions laid down in the West Bengal Municipal Act, 1993 and the Rules. The said communication clearly states that the PWD has neither constructed the bathroom, urinal on any part of the Birati-B.B.D Bag Mini Bus Terminus nor given any NOC to any authority/anybody to construct the same.

Having regard to the order of the Additional District Magistrate and the communication sent by the Executive Engineer, Dum Dum Municipality is required to take expeditious action to remove the unauthorised construction raised over the public land.

Learned counsel for respondent Nos.6 and 7 has submitted before this Court that necessary action of removal of unauthorised construction will be taken within a time-bound period.

Hence, we dispose of the present writ petition directing respondent Nos.6 and 7 to take necessary action in accordance with law to remove the unauthorised illegal construction in question within a period of 2 months from today.

Urgent certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]