

9.9.2022
Sl.No.121
sn

WPA 17599 of 2019

**Prasun Mondal & Anr.
Vs.
The State of West Bengal & Ors.**

**Mr. Pinaki Bhattacharyya
Mr. A.M. Bhattacharyya
..for the petitioner**

. It is submitted by the learned advocate for the petitioners that the petitioner no.1 has expired. It is also submitted that the heirs of the petitioner no.1 do not want to proceed with the writ petition. The petitioner no.2 is willing to proceed with the writ petition.

Despite service, none appears on behalf on behalf of the respondents. Let the affidavit of service be taken on record. As this Court is not inclined to pass any mandatory directions, but is relegating the matter back to the authorities, this writ petition is disposed of in the absence of the said respondents.

As no affidavit in opposition has been called for, the allegation in this writ petition are deemed to be denied by the respondents.

The petitioner no.2 alleges that the authorities of the Rajaram Gram Panchayat have not acted on the basis of the complaint filed, alleging unauthorised construction by the respondent nos. 7 to 9. In view of the subsequent events, this Court is of the opinion that the writ petition must be

disposed of without any orders but with the leave to the petitioner no.2 to approach the authorities afresh, with his allegation of unauthorised construction, if the said unauthorised construction continues to remain.

If the petitioner no.2 approaches the competent authority of the concerned Gram Panchayat within whose jurisdiction the alleged construction has been made, the said representation of the petitioner no.2 shall be disposed of, in accordance with law.

While disposing of the complaint, the following procedure shall be adhered to:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner no.2 and the respondent nos.7-9 within three weeks. Advance notice of the inspection shall be served upon the petitioner no.2 and the respondent nos.7-9. If the parties are not available to accept notice, the authorities shall affix the notices 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 had been 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 no.2 and the respondent nos.7-9. 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, shall 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 West Bengal Panchayat Act, 1973. The question of right, title and interest shall not be gone into.

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

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 learned advocates' communication.

(Shampa Sarkar, J.)