

WPA 20208 of 2021

Biswajit Halder
Vs.
State of W. B. & Ors.

Mr. Partha Pratim Roy
Mr. Lakshminath Bhattacharya
...for the petitioner.
Mr. Subrata Dutta
Mr. Banibrata Datta
...for the State.
Mr. Gourav Das
...for the respondent No.10.

Heard learned counsels for the parties.

The petitioner is primarily aggrieved by the order impugned dated 26th October, 2021 passed by the Sub-divisional Officer, Diamond Harbour, South 24 Parganas on the ground that the Sub-divisional Officer has no authority to deal with the matter.

In terms of the Notification No.1459-Fish/C-I/9R-7/84-III dated 16th June, 1994, the Block Development Officer in charge of a block has been declared as the competent authority to deal with the matters pertaining to the representation of the petitioner.

The petitioner prays for an order setting aside the order impugned dated 26th October, 2021 and fresh consideration of the representation by the competent

authority declared by the notice dated 16th June, 1994, that is, the Block Development Officer.

In refuting the said submission of the petitioner, learned counsel for the respondents submits that the petitioner has been given ample opportunity of hearing by the authority while considering the representation and the petitioner chose to remain silent before the authority with regard to the competence of the Sub-divisional Officer in dealing with the representation.

It is also submitted on behalf of the private respondent that the private respondent is ready and willing to remove the unauthorised construction made by him in compliance with the order impugned. It is further submitted that the petitioner has raised unauthorised construction without obtaining necessary permission from the authority.

It is not in dispute that vide notification dated 16th June, 1994, the Block Development Officer in charge of a block has been authorised to deal with such applications.

In an earlier writ petition being WPA 10840 of 2021 filed by the private respondent, a co-ordinate Bench of this Court directed the District Magistrate, South 24 Parganas to cause the representation of the writ petitioner therein (the private respondent) to be considered by a competent authority within a period of two months from the date of communication of a copy of the order.

The competent authority being the Block Development Officer, Mathurapur-I Block, should be directed to consider and dispose of the said representation after affording reasonable opportunity of hearing to both the parties in accordance with law.

Accordingly, the order impugned dated 26th October, 2021 passed by the Sub-divisional Officer, Diamond Harbour is without jurisdiction and is set aside. The Block Development Officer, Mathurapur-I Block is directed to consider the representation submitted by the private respondent, being the writ petitioner in the earlier writ petition, within one month from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the petitioner and the private respondent, in accordance with law.

In dealing with the writ petition, the Block Development Officer, Mathurapur-I Block shall not be influenced by the order impugned passed by the Sub-divisional Officer and shall make an independent enquiry into the matter before passing an order.

Pending disposal of the writ petition, both the petitioner and the private respondent are restrained from raising any further construction in the property concerned.

With the above observations and directions, the writ petition being WPA 20208 of 2021 is disposed of.

However, there shall be 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)