

S/L 16
9.3.2022
Court. No. 19
sn

W.P.A. 20269 of 2021

Golam Seikh
VS
The State of West Bengal & Ors.

Mr. Timir Baran Saha ... for the Petitioner.

Md. Sarwar Jahan
Mr. Asraf Mondal
... for the respondent nos.7-10

Mr. Susanta Pal
Ms. Ananya Neogi
..for the State

Despite service none appears on behalf of the panchayat authorities. Let the affidavit of service be kept on record.

The writ petition has been filed by the petitioner alleging some unauthorized constructions by the respondent nos. 7 to 10. It is alleged by the petitioner, who is a co-sharer of plot no.363, Mouza Murutia, Police Station Murutia, under the Murutia Gram Panchayat, District Nadia, that the said respondents have been raising unauthorized constructions without any permission from the competent authority.

It appears that the petitioner filed a complaint before the Murutia gram panchayat alleging some unauthorized constructions.

Mr. Jahan, learned advocate for the respondent nos.7 to 10 submits that the said respondents have not made any concrete construction. That a temporary

construction with thatched roof had been erected long ago, which was used as a shop room. That, according to the West Bengal Panchayat Act, 1973 and the rules framed thereunder, permission was not required for erection of temporary structures.

Mr. Pal, learned advocate for the State respondents submits that the police authorities have visited the locale and found that no construction was in progress.

Heard the learned advocates for the parties.

This Court is of the opinion that, when there is an allegation of unauthorized construction, the panchayat authorities must dispose of the representation of the petitioner in accordance with law. While doing so, the competent authority shall proceed in a manner as provided under Section 23 of the West Bengal Panchayat Act, 1973 and reach the proceeding to its logical conclusion, by adhering to the following procedure:

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 7-10 within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents 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 petitioner and the respondent nos. 7-10. 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 court has not gone into the merits of the claims and counter

claims of the parties and the issues involved shall be decided independently.

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.

There will be however no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)