

S/L 10
20.05.2022
Court. No. 19
sn

WPA 20599 of 2021

Nirupama Hazra
Vs.
The State of West Bengal & Ors.

Mr. Malay Banerjee
Mr. Raju Mondal

... for the Petitioner.

Mr. Chittapriya Ghosh
Ms. Aiswarjya Gupta
Ms. Priyanka Saha

... for the respondent no.6

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee

... for the State.

The learned advocate for the respondent no.6 submits that the construction has been made prior to formation of the Gram Panchayat. At the relevant point of time, there were no applicable rules for obtaining permission for such construction.

As the allegations made by the petitioner are with regard to the alleged unauthorised construction by the respondent no.6 on plot no. 2846 under Mouza Kaksa, District Paschim Burdwan, this writ petition is disposed of with a direction upon the competent authority of the Kaksa Gram Panchayat to dispose of the representation of the petitioner in accordance with law and arrive at a finding that as to whether there has been any unauthorised construction in violation of Section 23(1) of the West Bengal Panchayat Act, 1973 and the rules framed thereunder.

While doing so, the competent authority of Kaksa Gram Panchayat shall adhere to the following procedure:-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner, the respondent no.6 and all other interested parties. Advance notice of the inspection shall be served upon the petitioner and the respondent no.6. 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 was still 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 no.6. 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 documents relied upon by the respective parties shall be exchanged. The age of the building and whether the law was in force when the building was constructed, shall also be determined.

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.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)