

Sl. No.51
17.08.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 21123 of 2021

Mandal Fajlul Haque alias Fajlul Haque
Versus
The State of West Bengal & Ors.

Mr. Sayantan Basu
Mr. Debdutta Raha
Mr. Tonaya Ghosh

... for the petitioner

Mr. Sk. Mujibar Rahman

... for the State

None appears on behalf of Tenkaraipur Balumati Gram Panchayat and the respondent nos.7 & 8 despite service.

Affidavit of service filed in Court is taken on records.

The petitioner challenges the order dated 2nd November, 2021 passed by the Pradhan of the said Gram Panchayat. It has been submitted that the said order was passed without taking into consideration the building plan which was sanctioned in his favour by the Gram Panchayat and which was submitted by the petitioner to the Pradhan along with the letter dated 27th November, 2021.

A copy of the sanctioned plan was forwarded along with representation which was filed on behalf of the

petitioner praying for recalling the order dated 2nd November, 2021.

From the documents annexed to the writ petition it appears that the matter was taken up for consideration by the Pradhan in compliance of the order passed by this Court in WPA 4586 of 2021. The order impugned was passed upon giving opportunity of hearing to all the parties. The Pradhan records in the impugned order that the petitioner failed to produce any building sanctioned plan or permission from the Panchayat.

The petitioner has been directed to remove the unauthorised construction.

A further notice was issued to the petitioner on 8th December, 2021 by rectifying the date of hearing which was wrongly noted in the order dated 2nd November, 2021.

The reason for relegating the matter to the Pradhan in the earlier writ petition was to ascertain whether construction was being made in accordance with the plan sanctioned by the Panchayat. The specific case of the petitioner is that construction has been made strictly in accordance with the sanctioned plan.

As it appears that the petitioner has already forwarded a copy of the sanctioned plan to the Pradhan of the Gram Panchayat and has also annexed a copy of the plan to the present writ petition, accordingly, the instant writ petition is disposed of by directing the

respondent nos.4 & 5 to consider the prayer of the petitioner for recalling the order dated 2nd November, 2021 as submitted through the learned advocate of the petitioner by representation dated 27th November, 2021.

The Pradhan of the Gram Panchayat shall afford an opportunity of hearing to the petitioner as well as the private respondent and thereafter take a decision in the matter.

Till the representation of the petitioner dated 27th November, 2021 is disposed of, the respondents are directed not to give any effect or further effect to the impugned order dated 2nd November, 2021.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 27th November, 2021 and a copy of the sanctioned plan to the aforesaid respondents at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit of service filed in Court is taken on records.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)