

S/L 8
28.09.2022
Court. No. 19
GB

W.P.A. 21729 of 2022

Sri Ratan Das
VS
The State of West Bengal & Ors.

*Mr. Mrinal Kanti Ghosh,
Mr. Sounak Bhattacharya,
Mr. Debanjan Das.*

...for the Petitioner.

*Mr. Manoj Malhotra,
Mr. Suman Dey.*

...for the State.

*Md. Sarwar Jahan,
Mr. Maidul Islam Kayal.*

...for the Respondent Nos.5 to 7.

The petitioner alleges that the respondent nos.5 to 7 have raised an unauthorized construction without permission from the panchayat authorities. The alleged construction is on Dag No.398 of Mouza-Chaksukdeb, Police Station – Bishnupur.

Mr. Jahan, learned advocate appearing on behalf of the respondent nos.5 to 7 submits on instructions that a small shop room has been constructed by the said respondents and the same is exempted under the third proviso of Section 23(2) of the West Bengal Panchayat Act, 1973.

The petitioner denies the claim of the respondent nos.5 to 7.

Under such circumstances, the writ petition is disposed of directing the concerned Gram Panchayat to make an enquiry and dispose of the representation of the petitioner dated August 1, 2022 being Annexure-P/4 at Page-22 of the writ petition, in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.5 to 7. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.5 to 7 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the 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. The question of right, title and possession shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.5 to 7. 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from 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 server copy of this order.

(Shampa Sarkar, J.)