

S/L 3
21.11.2022
Court. No. 19
GB

W.P.A. 21934 of 2022

Sk. Nizamuddin
VS

The Principal Secretary, Panchayat
Department, Government of West Bengal & Ors.

Mr. Bhagbat Chaudhuri.

...for the Petitioner.

*Mr. Sudipto Panda,
Mr. Subhendu Sengupta.*

...for the State.

*Ms. Manjuli Chowdhury,
Ms. Mekhla Sinha.*

...for the Howrah Zilla Parishad.

Mr. Nilanjan Bhattacharjee.

...for the Respondent No.8.

The petitioner alleges that the respondent no.8 has constructed a G+4 storied structure on L.R. Dag Nos.606 and 613 of Mouza-Podrah without any permission from the Zilla Parishad and without any conversion of the land to homestead land. It is also submitted that the building rules have not been complied with.

The learned advocate for the respondent no.8 submits that the Howrah Zilla Parishad had granted sanction for such construction. He also submits that at best, there may be minor deviations which can be regularised.

To this, the learned advocate for the petitioner submits that the Panchayat Act does not provide for any regularisation and as such, the Howrah Zilla Parishad would not have any authority to regularise minor deviations.

The matter is yet to be decided by the authority. This Court does not express any view on the merits of the allegation.

The Howrah Zilla Parishad is the competent authority to adjudicate the issue by taking into account all the aspects and thereafter come to a decision as to whether the alleged construction of the respondent no.8 was in accordance with law or not.

Under such circumstances, the writ petition is disposed of with a direction upon the District Engineer, Howrah Zilla Parishad to treat the writ petition as a representation and dispose of the same 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 no.8. An advance notice of the inspection shall be served upon the petitioner and the respondent no.8 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 no.8. 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 accordance with law.

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.)