

13.12.2022
Sl.No.18
Ct.19
sn

WPA 21979 of 2022

**Sarat Jana
Vs.
The State of West Bengal & Ors.**

**Mr. Saunak Ghosh
Mr. Anindya Sundar Das
Mr. A. Sarkar
..for the petitioner**

**Ms. Ananya Chakraborty
..for the respdt.2
Mr. Sakya Maity
Mr. Subhas Jana
..for the respdts.7-13**

The petitioner alleges that the respondent nos. 7 to 13 have raised certain unauthorised structures on Dag Nos. 596 and 756, J.L. No. 128 of mouza Unal within Block Bhagwanpur-I. It is contended that such construction was without any permission from the Simuliya Gram Panchayat.

Learned advocate for the Gram Panchayat submits that no permission for such construction had been granted to the respondent nos. 7 to 13.

Learned advocate for the respondent nos. 7 to 13 submits that the constructions were under a housing scheme, namely, Pradhan Mantri Awas Yojana (PMAY) which was exempted from the applicability of Section 23 of the West Bengal Panchayat Act, 1973. Reference is made to Proviso 1 of Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules 2004. It is an admitted position that construction of

houses under the poverty alleviation programme would not require permission from the Gram Panchayat. It is not possible for the Court to ascertain the correctness of such statement made on behalf of the respondent nos. 7 to 13.

The petitioner shall approach the Pradhan of Simuliya Anchal Gram Panchayat for a clarification as to whether the respondent nos. 7 to 13 had been permitted to raise constructions under the PMAY(G) Scheme.

Whether the said respondents had been short listed as beneficiaries shall be answered by the panchayat authorities. If it is found that the constructions have been made under the PMAY(G) scheme, in that event the only issue that would be decided is whether the constructions were made in accordance with the model plan/drawing supplied to the beneficiary under the scheme.

If it is found that the constructions by the respondent nos. 7 to 13 were not permitted under the scheme, the panchayat authorities shall proceed in accordance with law upon hearing all the parties. The parties shall be heard and a reasoned order shall be passed. Such order shall be communicated to all.

The entire exercise shall be completed within a period of three months from the date of receipt of the petitioner's representation.

Before any final decision is taken, a spot inspection in presence of all the parties shall be made and the report, so prepared, upon such inspection shall be circulated amongst all the parties.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)