

16.11.2022
Sl. No.14(DL)
srm

W.P.A. No. 22940 of 2022

Shyama Prasad Porel

Versus

The State of West Bengal & Ors.

Mr. Bhagabat Chowdhury,
Sk. Toslim Ali,
Ms. Saba Parween

....for the Petitioner.

Mr. Jaharlal De,
Mr. Supratim Dhar

...for the State-respondents.

Mr. Soumya Basu Roy Chowdhury

...for the Respondent Nos.6 & 7.

Affidavit-of-service is taken on record.

The writ petition has been filed challenging a communication issued by the Pradhan of Tajpur Gram Panchayat, District-Howrah dated September 6, 2022 asking the petitioner to demolish the petitioner's unauthorised construction as per the direction of this Court.

The learned Advocate for the respondent Nos.5 and 6 has not been able to satisfy this Court as to whether any proceeding had been directed to be drawn up against the petitioner with regard to the petitioner's construction. Rather, a proceeding had been initiated in respect of the

unauthorised construction by another party on the direction of a co-ordinate Bench. The panchayat authorities were directed to take steps with regard to the objection raised by the petitioner.

The communication dated September 6, 2022 is misconceived. The authorities are of the view that the petitioner had also constructed unauthorisedly. The authorities have the jurisdiction to decide such issues in terms of Section 23 of the West Bengal Panchayat Act, 1973 by following the proper procedure. Clearly, no notice had been issued to the petitioner earlier. An order of demolition was passed without hearing the petitioner and without applying the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

The communication dated September 6, 2022 is set aside and quashed for the reasons aforementioned. However, this order shall not be construed as a restraint upon the authorities to proceed in accordance with law in case any unauthorised construction allegedly raised by the petitioner, is detected.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)