

9..11.2022
Court No. 19
Item No.41
sn

WPA 23062 of 2022

Sheikh Rezaul Haque @ Sk. Rejaul Haque
Vs.
The State of West Bengal & Ors.

Mr. Mrityunjay Chatterjee
Mr. R.R. Kumar
Mr. Debapriya Majumder
.....for the petitioner

Let the affidavit of service be taken on record.

The writ petition is based on vague and omnibus allegations.

The petitioner complains that the respondent nos. 7&8 have raised a construction without any permission from the authorities. However, there are no specifications as to why such challenge to the construction has been made.

Under such circumstances, no mandatory directions can be passed.

The petitioner is granted liberty to file a fresh representation with details and material particulars. If such representation is filed, the same shall be disposed of by the Kumirmorah Gram Panchayat, in accordance with law.

While doing so, the following procedure shall be adhered to:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the

petitioner and the respondent nos.7 and 8 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.7 and 8. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their 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.

e) A hearing shall be given to the petitioner and the respondent nos.7 and 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, shall 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

This 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 the date of receipt of the representation.

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 learned advocates' communication.

(Shampa Sarkar, J.)