

S/L 11
15.12.2022
Court. No. 19
GB

W.P.A. 23102 of 2022

Dr. Indranil Sinharoy
VS
The State of West Bengal & Ors.

*Mr. Abhratosh Majumdar,
Mr. Sayan Sinha,
Mr. Steven S. Biswas.*

...for the Petitioner.

Mr. Subhabrata Das.

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appears on behalf of the respondent nos.13 to 23. This is the second occasion when the said respondents have not appeared. Thus, the matter is taken up in their absence.

The petitioner alleged that the private respondents encroached into a panchayat road. It is contended that the panchayat authorities were legally bound to take steps for removal of all unauthorized encroachments over public streets or drains under the control and management of the gram panchayat. No steps had been taken by the authority, despite several requests.

On the last occasion, the Block Land and Land Reforms Officer as also the Upa-Pradhan of Babnan gram panchayat had been directed by this Court to file reports. The Block Land and Land Reforms Officer has filed a report dated December 13, 2022. The Revenue Inspector, the Pradhan and Upa-Pradhan of Babnan gram panchayat were

present during an inspection. The inspection revealed that an area measuring 612 sq. feet on L.R. Plot No.428, had been encroached. According to the record of rights, L.R. Plot No.428 under Mouza-Anti (J.L. No.89), Police Station – Dadpur, measures about 0.07 acres and had been recorded in the name of No.4 Babnan Anchal Panchayat. The classification of the plot was ‘path’. It appears that the plot has been encroached by a club, a temple and a private house.

Section 25 of the West Bengal Panchayat Act, 1973 authorizes the gram panchayat to have control over all public streets and waterways within its jurisdiction. It also has the power to take necessary steps for maintenance and repair. The provisions of law relating to removal of any encroachment over public street or road which is under the control and management of the gram panchayat are quoted below:-

“25.(2) A Gram Panchayat may, by a notice in writing, require any person who has caused obstruction or encroachment on or damage to any public street or drain or other property under the control and management of the said Gram Panchayat, to remove such obstruction or encroachment or repair such damage, as the case may be, within the limit to be specified in the notice.

(3) If the obstruction or encroachment is not removed or damage is not repaired within the time so specified the Gram Panchayat may cause such obstruction or encroachment to be removed or such damage to be repaired and the expenses of such removal or repair shall be recoverable from such person as a public demand.

(4) For the purpose of removal of obstruction or encroachment under sub-section (3), the Gram Panchayat may apply to the Sub-divisional Magistrate and the Sub-divisional Magistrate shall, on such application provide such help as may be necessary for the removal of such obstruction or encroachment.”

In view of the reports which have been filed, this Court directs that the Babnan gram panchayat must act and proceed in accordance with Section 25 of the West Bengal Panchayat Act, 1973.

The sketch map prepared by the inspecting team indicates encroachment. However, the inspection that was held and the report that was prepared shall be treated as a preliminary enquiry report.

A further notice be served upon the respondent nos.13 to 23 as also upon the petitioner, for holding a fresh inspection. The same inspection team will hold the inspection.

It is made clear that the representative of the temple, the club and the private house shall be allowed to participate at the inspection and thereafter the panchayat authority shall act and proceed in accordance with law. A further report shall be supplied to the parties. The inspection shall be made with the help of the Amin of the office of the Block Land and Land Reforms Officer.

Needless to mention, the panchayat authority shall act strictly in accordance with law and in terms of the Section 25(2), (3) and (4) of the West Bengal Panchayat Act, 1973.

A reasoned order shall be passed upon hearing all parties and communicated. Necessary steps shall be taken in accordance with law. The police authorities shall render assistance to the authorities as and when sought for.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)