

Item No.26

24.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 23158 of 2022

Sakti Pada Manna

-vs.-

The State of West Bengal & Ors.

Mr. Gazi Faruque Hossain
M. Priyanka Mondal
... for the petitioner.

Mr. Jahar Lal De
Mr. Indranil De
... for the State.

Mr. Keshab Chandra Das
... for the Municipality.

The petitioner, for the purpose of construction of an approach road with culvert on Baidyabati-Tarakeswar-Champadanga Road applied before the Executive Engineer, Public Works Department, Hooghly Construction Division in the year 2017.

The Executive Engineer, Public Works Department by communication dated January 7, 2019 accorded permission to the petitioner for construction of the same subject to the conditions as mentioned in the agreement.

Licence fee was also paid by the petitioner and the same was accepted by the Irrigation and Waterways Directorate. The petitioner complied with the necessary formalities including submission of the standard undertaking that there will generally be no restriction on using the bridge by the common pedestrian and vehicular traffic.

The petitioner submits that huge sum of money has already been invested for construction of the culvert.

The application for construction has also been sanctioned by the Irrigation and Waterways Department. The Executive Engineer-1, Lower Damodar Irrigation Division by communication dated June 24, 2022 permitted the petitioner to go ahead with the construction work of one 3-vent box cell culvert over Roner Khal at Plot No. 1340 (khal). The conditions that the petitioner is required to follow are also mentioned in the said communication.

The Municipality has issued a stop work notice to the petitioner indicating that the construction that has been made is an unauthorized one. The District Magistrate, Hooghly issued a letter to the Executive Officer of the Tarakeswar Municipality on September 1, 2022 requesting the concerned officer that unless and until specifically debarred by the Court or by any higher authority, the grievance of the petitioner should be redressed on urgent basis.

It appears that the Sub-Divisional Officer requested the Executive Officer of the Tarakeswar Municipality to appear before the said officer with all relevant documents on September 22, 2022. The Municipality intimated the Sub-Divisional Officer that in view of the mass petition submitted against such construction, the construction had to be stopped.

The mass petition submitted before the Municipality mentions that the construction of the culvert may block the passage of flood water and rain water. The Municipality apprehends that the said culvert will be used by the petitioner for his personal purpose

and the other pedestrians will not be permitted to use the same.

Learned advocate representing the State respondents submits, upon instruction that, the plan proposal for construction was duly vetted by the engineers of the Irrigation Department and the same has been sanctioned only after the authority was satisfied that there will be no blockage of the rain water. Three vent box are required to be constructed which will leave enough space for the rain and the flood water to flow. There will be no hindrance or obstruction in the free passage of water.

It has been submitted that undertaking has been given by the petitioner that there will be no restriction for use of the said culvert by the common pedestrians and vehicular traffic which will be allowed to cross the bridge subject to the standard restriction that heavy vehicular traffic will not be permitted.

I have perused the mass petition that has been produced before this Court by the learned advocate representing the Municipality.

The primary allegation in the mass petition appears to be the blockage of rain and sewage water. The apprehension appears to be an unfounded one. The engineers of the Irrigation and Waterways Department have permitted construction only after being satisfied that there will be no blockage in the free flow of water.

As it appears that the plan for making construction has duly been approved and sanctioned by the concerned department, accordingly, the petitioner may be permitted to proceed with the construction work

under strict supervision of the engineers of the Irrigation Department. The construction is to be made strictly in accordance with the sanctioned plan and not otherwise. If any deviation is noticed at the time of making construction, then it will be open for the authority to take all remedial measures to see that the deviations are removed and the construction may be permitted in accordance with the sanctioned plan.

The Municipality is directed to permit the petitioner to resume construction in accordance with the design and the plan sanctioned by the Irrigation Department.

The stop work notice issued by the Tarakeswar Municipality is accordingly set aside.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)