

21.11.2022
Sl. No.20(DL)
srm

W.P.A. No. 24724 of 2022

Rinku Chowdhury

Versus

The State of West Bengal & Ors.

Mr. Anila Kumar Chattopadhyaya
....for the Petitioner.

Mr. Rajarshi Basu,
Mr. K.M. Hossain
...for the State-respondents.

Mr. Prasenjit Burman,
Mr. S. Mondal
...for the Respondent No.6.

Affidavit-of-service is taken on record.

In the first round of litigation the petitioner had alleged that the respondent No.6 had raised a construction without any approved sanction plan. During the hearing of the said writ petition, the sanction plan was submitted before this Court and the Court was of the view that the writ petition should be disposed of without any orders. However, the Court granted liberty to the petitioner to approach the authority in case any violation of the building rules or the plan was detected.

Accordingly, the petitioner filed an objection before the Salap Gram Panchayat. The said objection is annexure P4 at page 21 of the writ petition. It has been mentioned

that the required side spaces as per the building rules have not been maintained. The construction of the respondent No.6 had gone beyond the approval granted by the authority.

Under such circumstances, without going into the merits of the writ petition, the Salap Gram Panchayat, District-Howrah is directed to dispose of the representation of the petitioner dated September 29, 2022, which is annexure P4 at page 21 to the writ petition, in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all parties, with 48 hours advance notice to the petitioner and the respondent Nos.6.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any. The issues of title and possession shall not be decided.
- c) Such report shall be handed over to the petitioner as also to all the interested parties.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was in deviation of the building rules and the

mandatory vacant spaces have not been maintained while raising the construction, the authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to the petitioner and all the parties. 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.
- 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 of the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The question of title, possession, encroachment, etc. shall not be gone into.

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.)