

S/L 27
21.11.2022
Court. No. 19
GB

W.P.A. 25028 of 2022

Shiv Prasad Bhattar
VS
The State of West Bengal & Ors.

Mr. Saket Sharma.

...for the Petitioner.

*Mr. Susanta Pal,
Ms. Ananya Neogi.*

...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.8 and 9. As this Court is not inclined to pass any mandatory directions as prayed for, the matter is disposed of in their absence.

Relying upon the information received under the Right to Information Act indicating that neither any permission had been granted by the authority nor any application for such permission had been received with respect to a proposed construction on Dag Nos.6006, 6007, 6010 and 6011 of Mouza-Margram, the petitioner alleges that the unauthorized construction on Plot No.6007 must be demolished. The allegation is that the piling work was in progress.

It does not appear from the records that the petitioner had filed an objection with regard to such construction upon receiving the answer from the Gram Panchayat.

Thus, no order can be passed in this writ petition, save and except that the petitioner would be at liberty to

approach the concerned panchayat authority in accordance with law by filing an appropriate objection. If such objection is filed, the same shall be disposed of in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.8 and 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.8 and 9 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the 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. The question of right, title and possession shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.8 and 9. 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, will 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 of Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently upon hearing the parties.

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

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 server copy of this order.

(Shampa Sarkar, J.)