

20.12.2022
Court No. 19
Item no.51
CP

W.P.A. No. 25340 of 2022

Banamali Middey & anr.

Vs.

The State of West Bengal & Ors.

Mr. Anil Kumar Chattopadhyaya

Mr. Dinesh Pani

.....for the petitioners.

Mr. Lalit Mohan Mahata

Mr. P. B. Mahata

...for the State.

Mr. Sreyash Basu Dasgupta

...for the respondent no. 6.

The writ petition has been filed challenging inaction of the Sub-Divisional Officer, Uluberia, District – Howrah. It is alleged that the authority failed to take steps under Section 23(5) of the West Bengal Panchayat Act, 1973.

The petitioners had alleged that the respondent no. 6 raised an unauthorized construction on Dag Nos. 102 and 103 of Mouza – Birshibpur.

As the panchayat authorities did not take any steps, the petitioners approached this court by filing WP No. 4700(W) of 2018.

The writ petition was disposed of by an order dated February 27, 2019. The court directed the gram panchayat to take a decision on the complaint lodged by the petitioner upon hearing the parties. It

was further directed that if any construction was found to be either without a plan or in deviation of the same, steps must be taken in accordance with law.

In compliance with the order of the court the panchayat authorities enquired into the matter and came to a finding that there had been an unauthorized construction. The matter was referred to the Sub-Divisional Officer, Uluberia, District – Howrah on June 8, 2022.

Mr. Chattopadhyaya, learned advocate for the petitioners submits that the matter is pending before the Sub-Divisional Officer since June 8, 2022.

The Sub-Divisional Officer is obligated under the law to take steps in terms of Section 23(5) of the West Bengal Panchayat Act, 1973, after granting an opportunity of hearing to the persons responsible for the alleged construction. Such exercise has not been completed.

The writ petition is disposed of with a direction upon the Sub-Divisional Officer, Uluberia, to take appropriate steps in accordance with law, upon granting an opportunity of hearing to the parties.

A reasoned order shall be passed and communicated to the parties. Thereafter, steps shall be taken in accordance with law.

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

The other issues which are subject matters of a civil suit, have not been gone into by this court.

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.)