

S/L 1
24.11.2022
Court. No. 19
GB

W.P.A. 25504 of 2022

Bhairab Roy
VS
The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal).

...for the Petitioner.

*Mr. Manoj Malhotra,
Mr. Suman Dey.*

...for the State.

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

Despite service, none appears on behalf of the Pradhan as also the respondent no.8. As this Court is not inclined to pass any mandatory directions but is relegating the matter to the Sub-Divisional Officer, Bishnupur for necessary action in terms of the direction of a coordinate Bench passed in WPA 2430 of 2021 and WPCRC 66 of 2022, the matter is taken up and disposed of in their absence.

The only order that can be passed in this writ petition is a direction upon the Sub-Divisional Officer, Bishnupur to act on the basis of the reference made by the Pradhan regarding an alleged unauthorized construction.

The petitioner had filed an application before this Court alleging unauthorized construction by the respondent no.8. The Court directed the Pradhan of the Dighalgram gram panchayat to take appropriate steps in accordance with law. The allegation was that the construction was without a plan and over a water body. The panchayat authorities concluded the proceedings and found the allegation to be

correct. The matter was referred to the Sub-Divisional Officer in terms of Section 23(5) of the West Bengal Panchayat Act, 1973.

The learned coordinate Bench while disposing of the contempt application filed by the petitioner came to the conclusion that the Pradhan had substantially complied with the order and the petitioner would be at liberty to proceed before the Sub-Divisional Officer.

Alleging the delay on the part of the Sub-Divisional Officer in disposing of the matter under the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973, the petitioner has filed this writ petition.

The writ petition is disposed of with a direction upon the Sub-Divisional Officer to proceed in accordance with law and take necessary steps by passing a reasoned order upon granting an opportunity of hearing to the petitioner as also the respondent no.8, whose construction has allegedly been found to be unauthorized by the panchayat authorities.

It is expected that the reasoned order shall be passed and communicated to all concerned. Steps shall be taken in accordance with law if it transpires after completion of the hearing, that the construction was unauthorized.

This Court has not gone into the merits of the claim of the petitioner. The Sub-Divisional Officer shall decide the issue independently and on the basis of the records available as also upon considering the rival contentions of the parties.

The entire exercise shall be completed within a period of eight weeks 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.)