

14.12.2022
Sl. No.4(DL)
srm

W.P.A. No. 26543 of 2022

Netai Maity

Versus

The State of West Bengal & Ors.

Mr. Soumen Bhattacharjee

....for the Petitioner.

Mr. Arun Kumar Roy,
Mr. Arun Kumar Saha

...for the State-respondents.

Ms. Manjuli Chowdhury,
Ms. Mekhla Sinha

...for the Howrah Zilla Parishad.

Mr. Sanjib Seth

...for the Respondent No.10.

Affidavit-of-service is taken on record.

The petitioner seeks implementation of the order passed by the District Engineer, Howrah Zilla Parishad. It appears that an order of self-demolition was served upon the respondent No.10.

The admitted position is that an unauthorised single-storeyed RCC building structure over a pond had been constructed without any permission from the Howrah Zilla Parishad. The area falls within the jurisdiction of the Kolkata Metropolitan Development Authority and all powers under the West Bengal Town and Country (Planning and

Development) Act, 1979 had been vested to the Howrah Zilla Parishad.

The learned Advocate for the petitioner submits that Rule 28 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 read with Section 160A of the West Bengal Panchayat Act, 1973 authorises the Zilla Parishad to take steps for demolition of the unauthorised structure.

Mr. Seth, learned Advocate appearing on behalf of the respondent No.10 submits that the other co-sharers of the building were not heard. Hence, the order was passed in violation of the principles of natural justice. The learned Counsel submits that the identity of the plot over which such construction had been made, had been mentioned in the order impugned.

Under such circumstances, this Court directs the District Engineer, Howrah Zilla Parishad to dispose of the issues by adhering to the following procedure:-

- (a) The order impugned shall be treated as a preliminary finding with regard to the unauthorised construction of Sri Ranjan Halder, the respondent No.9, and other co-sharers.
- (b) Another spot inspection in the presence of the petitioner, the respondent No.10 and all other co-

sharers shall be held on December 23, 2022 at 11:00 am.

(c) The plot shall be identified by referring to the mouza map and other land records.

(d) A report along with the sketch map and the area and height of the structure shall be prepared. The plot shall be mentioned.

(e) Such report shall be handed over to the petitioner, the respondent No.10 and all other co-sharers as also any other interested party found to be residing in the said premises.

(f) Thereafter a hearing shall be held. All the interested parties shall be allowed to file their written versions and evidences in support of their respective claims.

(g) A reasoned order shall be passed and communicated to all. Thereafter steps shall be taken in accordance with law.

The entire exercise shall be completed within a period of three months from the date of inspection.

This order shall be treated as the notice of inspection. Another notice shall be pasted by the Zilla Parishad on the premises in question, so that all the interested parties may be

present before the authority at the time of inspection and hearing. The petitioner shall intimate the order to the co-sharers.

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.)