

05.09.2022
Sl. No.5
srm

W.P.A. No. 28696 of 2014
Shibapada Bhadra
Vs.
The State of West Bengal & ors.

Mr. Sanjib Kumar Mukhopadhyay,
Ms. Nargish Parveen
.....for the Petitioner.

Mr. Jahar Dutta,
Mr. Bipin Ghosh
.....for the State-respondents.

Affidavit-of-service is taken on record. Despite service none appears on behalf of the respondent Nos.6 to 9.

As the Court has not decided the issue on merits but has relegated the matter to the authority under the provisions of Section 23 of the West Bengal Panchayat Act, 1973 to decide the issue, the writ petition is taken up in the absence of the said respondents.

The writ petition is disposed of with a direction upon the authority of the Dasghara 2 No. Gram Panchayat, District-Hooghly to consider and dispose of the objection filed by the petitioner dated September 26, 2014 in

accordance with law. While doing so, the gram panchayat shall adhere to the following procedures:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all interested parties, with 48 hours advance notice to the petitioner and all interested parties in the premises in question.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the interested parties.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and is continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to the petitioner and all other interested 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 Court has not gone into the merit of the claims and counterclaims of the parties and the issues shall be decided independently.

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

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.)