

May 17, 2023
Sl. No.A 155
Court No.19
s.biswas

WPA 657 of 2023

Biswanath Mondal

vs.

The State of West Bengal and others

Mr. Bipin Baidya

... for the petitioner

Affidavit of service filed by the petitioner is taken on record.

Despite service, none appears on behalf of the respondent no.9.

As the Court is not inclined to pass any mandatory direction as prayed for, but deems it fit to relegate the matter to the permission granting authority for determination of the allegation of unauthorized construction, the writ petition is taken up in the absence of the respondent no.9.

The petitioner alleges that the respondent no.9 has raised a construction on L.R. Plot No.1467 of Mouza-Krishnanagar, without any permission from the Ramkarchar Gram Panchayat. The petitioner had relied on an information given by the Executive Assitant, Ramkarchar Gram Panchayat, under the Right to Information Act, inter alia, stating that no approval for house building had been granted in favour of the respondent no.9, Sri Badal Mondal.

The petitioner has already approached the Pradhan, Ramkarchar Gram Panchayat, by filing a representation dated November 28, 2022, which is

annexed as Annexure P/6 at page 29 of the writ petition.

The Court is not inclined to go into merits of the allegation of the petitioner, but directs the Ramkarchar Gram Panchayat to dispose of representation of the petitioner in accordance with law.

While doing so, the following procedure shall be adopted by the permission granting authority:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.9. An advance notice of the inspection shall be served upon the petitioner and the respondent no.9 and on 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) A report of such inspection with the details shall be prepared along with a sketch map, indicating the extent and nature of unauthorized construction, if any.
- c) Such report shall be handed over to the parties. The question of right, title, interest, possession and boundary dispute etc. shall not be decided by the panchayat authorities.

The only issue to be decided would be whether the construction was in accordance with law and upon obtaining proper permission.

- d) A hearing shall be given to the petitioner and the respondent no.9 and other concerned persons. The parties must also be allowed to furnish their written objection/version to the 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.
- e) 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 23(5) of the West Bengal Panchayat Act, 1973.

Needless to mention, if any unauthorised construction is detected, necessary steps will be taken by the competent authority in accordance with law to demolish the structure.

The entire exercise shall be completed within a period of four months from the date of communication of the 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 server copy of this order as well as on the basis of communication of learned advocates.

(Shampa Sarkar, J.)