

S/L 24
24.1.2023
Court. No. 19
sn

W.P.A. 1012 of 2023

Rajib Lochan Panigrahi
VS
The State of West Bengal & Ors.

Ms. Pampa Dey Dhabal
Ms. Sabira Khatun
Ms. Riya Das

...for the Petitioner.

Mr. Pradip Kumar Das
Mr. Chirantan Sarkar

..for the respd.9

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

The petitioner alleges that the respondent no.9 has raised unauthorized construction without any permission from the Panchrol Gram Panchayat on Dag No. 42 pertaining to Khatian no. 350, J.L. No. 60, mouza Raida. It is contended that the said land has been classified as 'Danga' and has not been converted to 'Bastu' by the appropriate authority.

Reliance has been placed on the information given by the Pradhan, Panchrol Gram Panchayat dated November 28, 2022 on the representation filed by the petitioner which is Annexure P/2 at page 15 of the writ petition.

It appears that no construction has been permitted in respect of the respondent no.9.

The learned advocate for the respondent no. 9 hands up two letters written to the Pradhan, Panchrol Gram Panchayat dated May 30, 2022 and January 5, 2023. From

the said letters, it appears that permission had been sought for by the respondent No.9. The letter was allegedly sent by post. No confirmation of delivery of the same is before the Court. It appears that the panchayat authorities had been forwarded a copy of the plan prepared by the engineer.

Learned advocate for the respondent no.9 has not been able to satisfy the Court as to whether the application was made in the prescribed form or not. No receipt has been annexed. No evidence with regard to deposit of the fees have been produced. Thus, on the basis of the letter written to the Gram Panchayat, it cannot be assumed that the plan for permission had been validly submitted.

Under such circumstances, this writ petition is disposed of with a direction upon the permission granting authority, i.e., Panchrol Gram Panchayat to treat the writ petition as a representation of the petitioner and to take steps 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 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) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties. The questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent no.9. 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. All points raised by either party, will be decided.
- 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

The learned advocate on record for the petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the Panchrol Gram Panchayat.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)