

25.01.2023
Sl. No.14(DL)
srm

W.P.A. No. 1136 of 2023

Prabhat Goswami

Vs.

State of West Bengal & Ors.

Mr. Jahar Lal Roy,
Ms. Kabita Rani

....for the Petitioner.

Mr. Susanta Pal,
Ms. Ananya Neogi

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.8 to 10.

The Court is not inclined to pass mandatory directions as prayed for. The matter is sent back to the permission granting authority for necessary steps in accordance with law. The writ petition is thus, taken up in the absence of the said respondents who will be given adequate opportunity of hearing before the permission granting authority.

The petitioner alleges that the respondent Nos.8 to 10 have made a construction without any permission from the Chaitannyapur Gram Panchayat, District-Purba Medinipur.

The report filed by the Sub-Divisional Officer, Haldia, Purba Medinipur, is taken on record. It appears that the matter has already been sent to the concerned gram panchayat for necessary action in accordance with law by both the Purba Medinipur Zilla Pairshad as also the Sub-Divisional Officer, Haldia.

It *prima facie* appears that no permission for such construction was given to the respondent Nos.8 to 10 in respect of Plot No.158, J.L. No.44 of mouza Keshabpur.

Without going into the merits of the allegations made in the writ petition, this Court is of the view that the representation of the petitioner must be disposed of by the Chaitannyapur Gram Panchayat, District-Purba Medinipur.

The writ petition is disposed of with a direction upon the Chaitannyapur Gram Panchayat, District-Purba Medinipur, to dispose of the representation of the petitioner dated September 5, 2022 being annexure P2 at page 14 to the writ petition, in accordance with law. While doing so, the gram panchayat, shall adhere to the following procedure:-

- a) Inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.8 to 10, with 48

hours advance notice to the petitioner and the respondent Nos.8 to 10.

- b) Report of the inspection shall be prepared along with a sketch map indicating the extent of deviation, if any.
 - c) Such report shall be handed over to the petitioner as also the respondent Nos.8 to 10.
 - d) In case, it is found on preliminary inspection that there may be reasons to believe that the constructions were without permission and had been continuing, the authorities may take interim measures by stopping such construction.
 - e) A hearing shall be given to all the 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) Reasoned order shall be passed and communicated to the parties in respect of the alleged construction.
- 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 entire exercise shall be completed within a period of four months from the date of communication of this order.

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the competent authority.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan, Chaitannyapur Gram Panchayat, District-Purba Medinipur.

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.)