

Item No. 15  
08.02.2023  
Court. No. 19  
GB

W.P.A. 1871 of 2023

Sudip Halder  
VS  
The State of West Bengal & Ors.

*Mr. Uday Narayan Betal,  
Mr. Bhaskar Hutait*

*...for the Petitioner.*

*Mr. Naba Kumar Das,  
Mr. Abdus Salam*

*...for the State.*

*Mr. Tapas Kr. Mondal*

*...for the Zilla Parishad.*

*Mr. P.S. Deb Barman,  
Mr. Masud Ali,  
Mr. N. Choudhury,  
Mr. D. Dey Nayak*

*...for the Respondent Nos.9 & 10.*

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

The petitioner alleges that the respondent nos.9 and 10 have started raising a construction without permission from the Zilla Parishad. It is further alleged that the land on which such construction has been made, had not been converted to Bastu.

Mr. Deb Barman, learned advocate appearing on behalf of the respondent nos.9 and 10 produces the sanction plan given by the Pradhan and submits that conversion is in process and permission from the permission granting authority had been taken.

This Court cannot adjudicate the disputed questions of facts. The District Engineer, South 24 Parganas Zilla Parishad has already issued a notice to the parties and has

requested them to appear with all relevant documents. The writ petition is disposed of with a direction upon the parties to comply with the request of the District Engineer. Thereafter, the Zilla Parishad shall act and proceed in accordance with the provisions of Section 160A(6) of the West Bengal Panchayat Act, 1973.

If it is found on inspection that the sanctioning authority would be the gram panchayat or the panchayat samity, in that event the entire matter shall be referred to the said authority by the Zilla Parishad.

Whoever may be the permission granting authority in this case, the said authority shall dispose of the complaint of the petitioner with regard to the construction on LR Plot Nos.636, 635, 634 and 78 of Mouza-Ramnaranpur by adhering to the following procedure:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.9 and 10. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.9 and 10 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 in deviation of the sanction plan or without permission and/or without conversion

and was continuing, the authority may take interim measures by stopping such construction.

- c) A 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 question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The questions to be decided by the panchayat authorities would be whether the construction has been made without any permission and/or without conversion and/or in violation of the building rules.
- e) A hearing shall be given to the petitioner and the respondent nos.9 and 10. 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 accordance with law.

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

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

As no affidavits have been called for, the allegations are deemed to be denied.

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 the server copy of this order.

**(Shampa Sarkar, J.)**