

28.08.2023
rc/ct.no.10
Item No.12

WPA No. 2003 of 2023
Atal Krishna Jana
Versus
The State of West Bengal & Ors.

Mr. Sudhasatva Banerjee	
Mr. Dyutimoy Paul	
Mr. Akash Dutta	...for the petitioner
Mr. T.M.Siddique	
Mr. S. Adak	for the State

On the prayer of the petitioner liberty is granted to implead the Executive Magistrate, Haldia as respondent no. 7 in the writ petition.

The cause title of this writ petition be amended accordingly.

The petitioner primarily assails the order passed by the Executive Magistrate, Haldia on January 05, 2023 which is, in substance, an order under Section 10(3) of the West Bengal Highways Act, 1964 (hereinafter referred to as “the Act of 1964”). The petitioner seeks reconsideration under Section 10(3) of the Act of 1964 upon being granted opportunity of hearing by the authority.

A bare perusal of the order dated January 05, 2023 demonstrates that it is not a reasoned or speaking order at all and the order is silent as to whether sufficient opportunity of hearing was granted to the petitioner before passing the order.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that the concerned authority should be directed to revisit the issue under Section 10(3) of the Act of 1964 in accordance with law.

Therefore the order dated January 05, 2023 passed by the Executive Magistrate, Haldia in MP Case No. 1948 of 2022 is set aside.

The concerned authority being the Executive Magistrate, Haldia (7th respondent herein) is directed to revisit the issue upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondents and pass a reasoned and speaking order within one month from the date of communication of this order.

Parties shall be at liberty to adduce evidence, both oral and documentary, before the authority at the time of hearing.

No coercive steps be taken against the petitioner in respect of the plot in question till disposal of the proceeding under Section 10(3) of the Act of 1964.

With the above observation and direction the writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)