

28.02.2023
Sl. No.24(DL)
srm

W.P.A. No. 2839 of 2023

Haru Baul Das & Anr.

Versus

The State of West Bengal & Ors.

Syed Nurul Arefin,
Mr. Rahul Singh

....for the Petitioners.

Ms. Sipra Majumdar,
Ms. Prativa Ghatak

...for the State-respondents.

Mr. Suman Chakraborty

...for the Respondent No.6/Pradhan.

Mr. Mrinal Kanti Ghosh,
Mr. M. N. Mukherjee

...for the Respondent No.9 to 11.

Affidavit-of-service is taken on record.

The petitioners allege that the Pradhan of Belun Dhamasin Gram Panchayat, Hooghly, did not have any authority to direct demolition of the alleged unauthorised construction. Further allegation is that the Pradhan did not supply the copy of the order passed pursuant to a direction of the Court.

Most importantly, the petitioners submit that the panchayat authorities failed to look into the documents supplied by the petitioners in support of their contention

that the construction was under the Pradhan Mantri Awas Yojana(Gramin).

All these issues can be adjudicated by the Sub-Divisional Officer, Sadar Chinsurah, Hooghly while disposing of the matter in terms of Section 23(5) of the West Bengal Panchayat Act, 1973. The petitioners shall be at liberty to approach the said authority for a copy of the order of the gram panchayat and also the documents relied on by the gram panchayat. If such approach is made, the documents will be supplied to the petitioners at the cost of the petitioners. Secondly, the petitioners shall be at liberty to urge the point that the construction on plot No.133/111 pertaining to Khatian No.360 of mouza Rasna, was under a particular housing scheme.

The Sub-Divisional Officer shall hear all the parties and pass necessary order after considering all the points. Needless to mention, if the construction is under a housing scheme and the petitioners are able to prove the same with relevant documents, no further action will be taken, but the matter will be referred to the Block Development Officer, Pandua, Hooghly for determination as to whether the construction under the scheme had been made as per the model drawing/layout plan/sketch, which was given to the beneficiary by the authority for construction under the

PMAY(G) scheme or any other housing scheme. The Block Development Officer shall then take necessary steps in accordance with law.

However, if the contention of the petitioners is found to be incorrect and the findings of the panchayat authorities are found to be correct, the Sub-Divisional Officer shall act and proceed in accordance with law and direct demolition of the unauthorised portion.

The civil suit shall not have any bearing on this order.

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.)