

Item No. 1
07.02.2023
Court. No. 19
GB

W.P.A. 2889 of 2023

Sourav Manna & Ors.
VS
The State of West Bengal & Ors.

*Mr. Ritwik Pattanayak,
Mr. Rupam Mukhopadhyay*

...for the Petitioners.

*Mr. Raja Saha,
Mr. S.P. Lahiri*

...for the State.

Mr. Anand Farmania

...for the Respondent Nos.8 & 9.

*Ms. Munmun Tewary,
Ms. Chumki Chowdhuri*

...for the Respondent No.12.

The police authorities have filed a report. It appears that the demolition work has already been postponed pursuant to a decision adopted in a meeting held on February 6, 2023 between the Sub-Divisional Officer, Medinipur Sadar and other authorities including the gram panchayat.

The petitioners have challenged the order of demolition passed by the Pradhan of Amkopa gram panchayat dated January 30, 2023 on the ground that the Pradhan did not have the authority and competence under the law to direct demolition or effect demolition before the Sub-Divisional Officer had entered into the matter and passed a direction for demolition under Section 23(5) of the West Bengal Panchayat Act, 1973.

The panchayat authorities, pursuant to a direction of this Court had entered into an enquiry to determine the

allegation of unauthorized construction by the petitioners. It is submitted by Ms. Tewary and Mr. Farmania, learned advocates appearing on behalf of the respondent no.12 and respondent nos.8 and 9 respectively, that a hearing was given by the panchayat authorities to both the parties. Thereafter, a decision was taken for demolition.

Mr. Lahiri, learned advocate appearing on behalf of the State respondents has filed a report prepared by the Inspector-in-Charge, Goaltore Police Station. A civil suit is pending between the parties. An order of status quo was passed and the police authorities were directed to implement the said order passed by the learned civil court. Mr. Lahiri also submits that as there was violation of the order of the Court, the police authorities had registered an FIR which ended with the filing of a charge-sheet.

However, the allegation with regard to the unauthorized construction is distinct from the issue involved in the suit. The permission granting authority is required to determine the issue in accordance with law. Thus, the writ petition is disposed of with a direction upon the Pradhan, Amkopa gram panchayat to serve a copy of the order and the resolution adopted while coming to the findings of unauthorized construction, upon both the parties. The gram panchayat shall forward all the documents relating to the proceeding held and also its decision to the Sub-Divisional Officer, Medinipur Sadar. The Sub-Divisional Officer will hear the petitioner, the respondent no.12 and all other interested parties, who are responsible for such construction.

A reasoned order will be passed. If the allegation in respect of the subject construction is proved to be correct, necessary orders for demolition will be passed. The demolition shall be effected in terms of such order.

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

This Court has not gone into the merits of the issue involved. The Sub-Divisional Officer, Medinipur Sadar shall decide the issue independently, upon hearing the parties concerned and upon perusal of the records which shall be forwarded by the gram panchayat.

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.)