

13.03.2023
Sl. No.6(DL)
srm

W.P.A. No. 3144 of 2023

Masudan Bibi & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Prasad Bhattacharyya,
Mr. Sidhartha Sarkar

....for the Petitioners.

Mr. Dwarika Nath Mukherjee,
Mr. Janardan Mondal

...for the State-respondents.

Mr. Debrop Bhattacharjee,
Mr. Ritesh Kumar Ganguly

...for the Respondent Nos.7 & 8.

Affidavit-of-service is taken on record.

The petitioners are aggrieved by the inaction of the
Paschim Medinipur Zilla Parishad.

The Pradhan of No.7 Barkola Gram Panchayat,
District-Paschim Medinipore, was of the view that as per
the nature and the size of the building, the zilla parishad
would be the appropriate authority to decide the issues,
and the objection of the petitioners was not adjudicated by
the gram panchayat.

The permission granting authority, for construction
of a high rise building was the zilla parishad. Thus, the
panchayat authorities did not exercise their jurisdiction

under the law in respect of the said construction. The issue of non-conversion of the land was also not gone into by the panchayat authorities.

Without going into the merits of the allegations made in the writ petition, the writ petition is disposed of granting liberty to the petitioners to file a proper objection with their allegations in respect of the alleged construction by the respondent Nos.7 and 8 before the Paschim Medinipur Zilla Parishad. If such objection is filed, the same shall be disposed of in accordance with law.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent Nos.7 and 8, with 48 hours advance notice to the petitioners and the respondent Nos.7 and 8.
- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioners as also the respondent Nos.7 and 8.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction

was without conversion of the land as also 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) 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 entire exercise shall be completed within a period of four months from the date of receipt of the representation of the petitioners.

The Court has not gone into the merits of the claim of the petitioners and the issues raised shall be decided by the appropriate 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 Paschim Medinipur Zilla Parishad.

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.)