

24.03.2023
Court No. 19
Item no.84
CP

WPA No. 4251 of 2023

Sk Shahajahan
Vs.
The State of West Bengal & Ors.

Mr. Sk. Rejaul Alam

.....for the petitioner.

Mr. Rajarshi Basu
Mr. S.T. Mina

.....for the State.

Mr. R. I. Sardar

....for the respondent no. 11.

The petitioner has challenged the report prepared by the Nandigram No. 4 Gram Panchayat dated January 19, 2023. As per the report, there are findings of unauthorised construction. The petitioner challenges such report on the ground that the findings are erroneous as the petitioner had purchased the property along with the existing structure which had been sanctioned in favour of the petitioner's vendor by the erstwhile pradhan.

This court does not find any illegality in the action taken by the gram panchayat so far.

A writ petition was filed by the respondent no. 11 alleging unauthorised construction. The writ petition had been disposed of by this court with a

direction upon the gram panchayat to act and proceed in accordance with law. A procedure had been laid down in the order, wherein, the court had directed an inspection to be made by the gram panchayat and a report of such inspection to be prepared. Such report of inspection has been challenged before the court. However, the court had already directed that once the report would be furnished to the parties, the parties would be at liberty to respond to the said report and defend their respective cases.

Records reveal that both the parties had been furnished with the report and they have been asked to appear before the gram panchayat with relevant records. This is the first stage of the decision making process as directed by the court. Once the parties before the court file their written versions, the panchayat authorities will, decide whether they are of the view that there has been an unauthorised construction. The next step would be to pass a reasoned order and communicate the same to the parties. Along with the aforementioned action, the entire records are to be transmitted to the concerned Sub-Divisional Officer for compliance of Section 23(5) of the West Bengal Panchayat act, 1973.

Thus, at this stage, there is no reason for the court to interfere. The petitioner will be at liberty to

file all documents in support of the construction and in support of the case that the existing structure was constructed by the vendor on the basis of a previously sanctioned plan. The court has not gone into the merits of the issues raised by either party. The matter is still to be decided as per the direction passed earlier.

The petitioner and the respondent no. 11 shall file the written versions to the said report within a period of two weeks from date.

The panchayat authorities shall hear the parties and pass necessary orders. Thereafter, the issue shall be decided by the Sub-Divisional Officer in terms of Section 23(5) of the West Bengal Panchayat act, 1973, where again the petitioner will get adequate opportunity to place his case as per the provisions of law.

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.)