

14.03.2023
Sl. No.12(DL)
srm

W.P.A. No. 5065 of 2023

Tahir Zaman Laskar

Versus

The State of West Bengal & Ors.

Mr. Shyama Prasad Purkait,
Ms. Moumita Mondal

....for the Petitioner.

Mr. Susovan Sengupta,
Mr. Subir Pal

...for the State-respondents.

Mr. Pritam Choudhury,
Mr. Abhisek Addhya

...for the Respondent Nos.9 & 10.

Affidavit-of-service is taken on record.

The petitioner alleges that the Belegachi Gram Panchayat, South 24-Parganas had failed and neglected to comply with the order dated February 19, 2019 passed in W.P. No.628 (W) of 2018.

According to the petitioner, although a notice for physical enquiry was given to the parties, the authority did not take any further steps.

This Court had directed the Belegachi Gram Panchayat to reconsider the matter and determine whether there had been any unauthorised construction, either in the absence of a sanction plan or in deviation of such plan.

Further direction was to take necessary steps in accordance with law.

Learned Advocate for the respondent Nos.9 and 10 submits that the physical enquiry was made, but there was no progress.

Under such circumstances, the writ petition is disposed of with a direction upon the Belegachi Gram Panchayat, South 24-Parganas to dispose of the representation of the petitioner dated March 18, 2019 being annexure P/3 at page 31 of the writ petition, in accordance with law and decide the question as to whether the construction of the respondent Nos.9 and 10 was either without a plan or in deviation of a plan. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) Inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent No.9 and 10, with 48 hours advance notice to the petitioner and the respondent No.9 and 10.
- b) Such report shall be handed over to the petitioner as also the respondent No.9 and 10.

- c) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was not in accordance with law, the authorities may take interim measures by stopping such construction.
- d) 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.
- e) A reasoned order shall be passed and communicated to the parties in respect of the alleged construction. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The Court has not gone into the correctness of the allegations of the parties and the issues raised shall be decided by the competent authority.

The question of right, title, encroachment of the parties shall not be gone into by the concerned gram panchayat.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Belegachi Gram Panchayat, District-South 24-Parganas.

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.)