

Item No.9
29.03.2023
Court. No. 19
GB

WPA 5521 of 2023

Sri Debabrata Ghosh
Vs
The State of West Bengal & Ors.

Mr. Aniruddha Bhattacharyya,
Mr. Indranuj Dutta,
Mr. Bikram Basak,
Mr. Rahul Ghoshal

...for the Petitioner.

Mr. Gaurav Das,
Mrs. Kakali Naskar

...for the State.

Affidavit-of-service filed in the Court, be kept with the record.

The respondent nos.9 and 10 have refused service. The respondent nos.7 and 8 could not be traced. The Court is not inclined to pass any mandatory direction as prayed for and is of the view that the matter should be relegated to the panchayat authorities for necessary decision.

The petitioner alleges that shop rooms have been constructed by blocking the pavement. According to the petitioner, the pavements and streets on which such shop rooms have been constructed, are under the control and management of the Masat Gram Panchayat.

Despite service, none appears on behalf of the Masat Gram Panchayat. The police report also indicates that a copy of the earlier order passed by this Court had been served upon the Pradhan.

Thus, the writ petition is disposed of with a direction upon the Masat Gram Panchayat to consider and dispose of

the representation of the petitioner dated December 26, 2022 in accordance with law. Section 25 of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act') casts a duty upon the panchayat authorities to ensure that the public streets or roads are maintained properly and are free from encroachment, etc. Section 25(2) of the said Act empowers the panchayat authorities to take steps for removal of the encroachment, if any, over any public street or road under the control and management of the gram panchayat.

While deciding the issue, the gram panchayat shall cause an inspection in the presence of the parties and also prepare a report. Such report shall be handed over to the parties. The parties shall be entitled to respond to the said report. Thereafter, proper hearing should be given to all the parties including the respondent nos.7 to 10. Necessary order shall be passed with reasons and the same shall be communicated to all concerned.

If there are any encroachment over the public street or pavement within the control of the panchayat authorities, steps shall be taken in terms of Section 25(2) of the said Act. In case it is found that the encroachment is on a public road and/or public street not within the control of the panchayat authorities, the entire matter shall be sent by the panchayat authorities to the appropriate authority for further action.

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

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.)