

29.03.2023
Court No. 19
Item no. 24
CP

W.P.A. No. 6170 of 2023

Md. Nasir

Vs.

The State of West Bengal & Ors.

Mr. Mahammad Mahmud

Mr. M. Mollah

Ms. Afrin Nahar Mondal

....for the petitioner.

Ms. Sonal Sinha

....for the State.

Despite service, none appears on behalf of the panchayat authorities.

As this court does not find any reason to keep the writ petition pending, this writ petition is taken up in their absence.

The petitioner alleges that the Haripal Ashutosh Gram Panchayat had illegally cancelled the permission granted to the petitioner for construction on L.R. Plot No. 275 of Mouza – Aminpur. The petitioner submits that the decision was taken without granting any opportunity of hearing to the petitioner. No inspection preceded such decision. The decision was pasted on the outer wall of the construction.

The court is of the view that the action of the panchayat authorities is totally illegal and contrary

to law. If the authority found that the construction was beyond the sanction plan, an opportunity of hearing should have been given to the petitioner, upon an inspection being held in the presence of the petitioner. Thereafter, the authority was entitled to take steps in accordance with Section 23(5) of the West Bengal Panchayat Act, 1973. Without adhering to the above legal procedure, the panchayat authorities cancelled the permission, that too, in violation of the principles of natural justice.

Thus, the writ petition is disposed of upon setting aside the decision of the panchayat authorities for cancellation of the plan.

The panchayat authorities shall hold an inspection in the presence of the petitioner and any other complainants who may have raised an objection in respect of such construction. The panchayat authorities will decide whether there has been any deviation from the plan upon holding an inspection in presence of the relevant parties.

The report of such inspection shall be prepared indicating the nature and extent of unauthorized construction and/or deviation from the plan and communicated to the parties.

The parties shall respond to the report and hearing shall be given to the parties. Thereafter, on the basis of the findings, steps shall be taken in

terms of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

As there is a prima facie finding that the construction of the petitioner is contrary to the plan, the petitioner shall not cause any further construction till the final decision is arrived at by the authorities.

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.)