

03.04.2023
Court No.19
Item No.23(DL)
srm

W.P.A. No. 6772 of 2023

Sri Rasu Santra

Versus

The State of West Bengal & Ors.

Mr. Animesh Paul

... for the Petitioner.

Mr. Jahar Lal De,
Mrs. Smita Das De

... for the State-respondents.

Ms. Mekhla Sinha

...for the Howrah Zilla Parishad.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. R. Raihan Ahmed,
Mr. Rudranil Das

...for the Respondent No.6.

Affidavit-of-service is taken on record.

The order of the District Engineer, Howrah Zilla Parishad is the subject matter of challenge in the writ petition.

It appears that the District Engineer, Howrah Zilla Parishad relied on a report submitted by the Chartered Engineer, K. Roy & Associates dated February 7, 2023, without having furnished the same either to the petitioner or to the respondent No.6. According to the finding of the

District Engineer, as the construction was more than 20 years old, the same did not need any sanction in terms of the Bye Laws of Howrah Zilla Parishad.

The learned Advocate for the petitioner submits that the report of the Chartered Engineer, K. Roy & Associates ought to have been supplied to the petitioner so that objections could be raised.

Mr. Mukherjee, learned Advocate for the respondent No.6 submits that the construction being a tile shed structure with hardly any concrete walls was exempted from the provision of Section 23 of the West Bengal Panchayat Act, 1973. It is the specific contention of Mr. Mukherjee that the report of the chartered engineer would show that the construction was made prior to the enforcement of the building rules and as such the nature of construction did not require any permission.

Having heard the learned Advocates for the respective parties, this Court finds that the report of the Chartered Engineer, K. Roy & Associates had not been supplied to the parties and parties were not in a position to respond to the same.

Under such circumstances, the order dated February 23, 2023 is set aside and cancelled on the ground of violation of principles of natural justice.

The matter shall be re-heard by the District Engineer, Howrah Zilla Parishad, upon furnishing copies of the report to the respective parties and providing them an opportunity to respond to such report. A reasoned order shall thereafter be passed and communicated to the parties.

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

The merits of the findings have not been gone into.

A copy of the writ petition along with a server copy of this order be served upon the District Engineer, Howrah 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.)