

29.03.2023
Court No. 19
Item no.56
CP

W.P.A. No. 6841 of 2023

Sk. Abdur Rouf

Vs.

The State of West Bengal & Ors.

Mr. Saba Parween

....for the petitioner.

Affidavit of service is taken on record.

From the track reports downloaded from the website of indiapost.com, it appears that the respondent nos. 6 to 17 had refused service. Thus, refusal is good service and the matter is taken up.

The petitioner alleges that the respondent nos. 6 to 17 are raising some construction on L.R. Plot No. 351, corresponding to L.R. Khatian No. 28/1 of Mouza – Sirajbati, without any permission from the panchayat authorities.

An objection dated February 27, 2023, has been filed before the Sirajbati Gram Panchayat being Annexure P-3, at page 19 of the writ petition.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with a direction upon the Sirajbati Gram Panchayat to dispose of the same in accordance with law. While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 6 to 17. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 6 to 17 and on all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.
- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent nos. 6 to 17. 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. All points raised by either party, will be decided.

- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act.

The court has not gone into the merits of the claims.

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

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)