

30.03.2023
Sl. No.23(DL)
srm

W.P.A. No. 7245 of 2023

Khokan Shit & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Lalratan Mandal,
Mr. Dilip Kumar Sadhu

....for the Petitioners.

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata

...for the State-respondents.

Mr. Avik Kumar Das

...for the Respondent No.5/Pradhan.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.8 and 9.

The Court is not inclined to pass mandatory directions as prayed for, but deems it fit to send back the matter before the competent authority, for necessary steps. The writ petition is thus, taken up in the absence of the respondent Nos.8 and 9 who will be given adequate opportunity of hearing by the authority.

The petitioners allege that the respondent Nos.8 and 9 have raised an unauthorised construction on LR Plot No.3 of mouza Bandhgora, District-Jhargram, without any

permission from the Lalgrah Gram Panchayat, District-Jhargram.

The learned Advocate appearing for the Pradhan, Lalgrah Gram Panchayat has submitted a report which, *inter alia*, states that the respondent Nos.8 and 9 had raised a construction without any approved building plan. The report of the Pradhan is taken on record.

Without going into the merits of the allegations made in the writ petition, the writ petition is disposed of with a direction upon the permission granting authority, *i.e.* Lalgarh Gram Panchayat, District-Jhargram to dispose of the representation of the petitioners, which is annexure P4 at page 29 of the writ petition, in accordance with law.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent Nos.8 and 9, with 48 hours advance notice to the petitioners and the respondent Nos.8 and 9.
- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.

- c) Such report shall be handed over to the petitioners as also the respondent Nos.8 and 9.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and had been continuing, the authorities may take interim measures by stopping such construction.
- e) 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.
- 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 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 merits of the claim of the petitioners and the issues raised shall be decided by the competent authority.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Lalgarh Gram Panchayat, District-Jhargram.

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.)