

04.04.2023
Court No.19
Item No.7(DL)
srm

W.P.A. No. 7360 of 2023

Sri Chittaranjan Biswas

Versus

The State of West Bengal & Ors.

Mr. Jayanta Kumar Mandal,
Mr. Sayantan Rakshit

... for the Petitioner.

Mr. Naba Kumar Das,
Mr. Subhabrata Das

... for the State-respondents.

Mr. Prashant Kumar Singh

...for the Respondent Nos.10 to 12.

Affidavit-of-service is taken on record.

Having perused the police report and the report filed by the Rishra Gram Panchayat, Hooghly, before the learned Special Executive Magistrate, Serampore Sub-Division S.D.E.M (Special) Court, Serampore, it appears that a temple had been constructed by encroaching a public drain and a public road under the control and management of the gram panchayat. The said construction had also resulted in blockage of two windows of the petitioner.

Any construction on a public road or street under the control and management of the gram panchayat can be

removed in exercise of power under Section 25(2) of the West Bengal Panchayat Act, 1973.

It is the contention of the respondent Nos.10 to 12 that no permission for such construction had been taken as the same was a small temple. That the construction was admittedly over a public drain, but the drain had not been blocked. Further contention of the respondent Nos.10 to 12 is that as the local people were dumping garbage on the drain and along the boundary wall of the said respondents, finding no other alternative, a small makeshift temple had been constructed to prevent such public nuisance.

Be that as it may, encroachment on public roads and drains is unauthorised and the panchayat authorities are empowered by law to take action.

The writ petition is disposed of with a direction upon the Rishra Gram Panchayat, Hooghly to dispose of the representation of the petitioner upon granting an opportunity of hearing to the petitioner as also the respondent Nos.10 to 12. The authorities will take a decision and take necessary steps to ensure that the public drain and road is not encroached. At the same time, it is also the duty of the panchayat authorities to ensure that the area in which the respondent Nos.10 to 12 reside is

clean and habitable. Maintenance of proper sanitation, sewerage system, removal of garbage and prevention of public nuisance is also the duty of the panchayat authorities. The panchayat authorities shall make arrangements so that no garbage or waste is either dumped or thrown in and around the house of the respondent Nos.10 to 12.

A reasoned order shall be passed and communicated.

All remedial steps and measures shall be taken in accordance with law and as per the observations made hereinabove.

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

The respondent Nos.10 to 12 are also at liberty to approach the police authorities, if any nuisance is created in and around their house.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Rishra Gram Panchayat, Hooghly.

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.)