

11.04.2023
Sl. No.37(DL)
srm

W.P.A. No. 8497 of 2023

Madhuri Keora

Vs.

The State of West Bengal & Ors.

Mr. Sarban Bhattacharjee

....for the Petitioner.

Ms. Piyali Sengupta,
Ms. Sanjukta Samanta

...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.7 to 10. Affidavit-of-service is taken on record.

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 to 10 who will be given adequate opportunity of hearing by the authority.

The petitioner alleges that the earlier order passed by a learned co-ordinate Bench of this Court in WPA No.18753 of 2019 had not been complied with by the panchayat authorities. The said order was passed on April 8, 2021.

The relevant portion of the order is quoted below:

“The petitioner claims to have made an objection before the Pradhan of Gogra Gram Panchayat by a letter dated 16th September, 2019 but there is no proof of service of the said letter upon the Pradhan of the said Gram Panchayat.

In view of the above, leave is granted to the petitioner to make a fresh representation before the concerned Gram Panchayat highlighting the illegalities committed by the private respondents.

In the event such a representation is made before the Gram Panchayat, then necessary steps shall be taken for consideration of the same, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner. The Pradhan of the Gram Panchayat upon consideration of the representation of the petitioner shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

WPA 18753 of 2019 stands disposed of.”

It appears that the petitioner was not pursuing her rights diligently. The representation was sent to the authority after a year from the order passed by the Court granting liberty to the petitioner to file her representation before the panchayat authorities. Thus, the Court does not find any reason to pass mandatory directions. However, the order passed by the learned co-ordinate Bench in an earlier occasion should be complied with by the Gogra Gram Panchayat, Bankura.

Hence, the representation through the learned Advocate dated May 30, 2022 which is annexure P/8 at

page 64 of the writ petition shall be disposed of by the Gogra Gram Panchayat, Bankura, 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 petitioner and the respondent Nos.8 to 10, with 48 hours advance notice to the petitioner and the respondent Nos.8 to 10.
- 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 petitioner as also the respondent Nos.8 to 10.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and in violation of the building rules 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.

This Court has not gone into the merits of the claims of the petitioner and the issue raised shall be decided by the competent authority, independently.

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

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.)