

D/L
Item No. 03
17.07.2023
KOLE

**MAT 689 of 2023
With
IA No. CAN 1 of 2023**

**Tapan Kumar Sahana
-Vs.-
The State of West Bengal & Ors.**

*Mr. Biswajit De,
Ms. M. Manna,*

...for the appellant.

Mr. Srinath Singh,

...for the State.

This appeal is directed against a judgment and order dated February 28, 2023, whereby the appellant's writ petition being WPA 2724 of 2023 was disposed of.

The appellant had approached the learned Single Judge with the grievance that the Pradhan of the concerned Gram Panchayat was not acting in terms of Section 21A(p) of the West Bengal Panchayat Act, 1973. The private respondent was using a road for carrying on his personal business and was involved in illegal quarrying of sand. The representation made to the Pradhan has not been considered at all. With this grievance, the appellant filed the writ petition.

By the order impugned, the learned Judge disposed of the writ petition with the following observations:-

“Learned Advocate for the Pradhan submits that the dispute is entirely private in nature, between relatives. The petitioner and the respondent no. 7 are so-sharers of the disputed land through which a passage has been created for business purpose.

Under such circumstances, no order can be passed on the Pradhan of Berugram Gram Panchayat.

This order shall not prevent the petitioner from approaching the competent authority in accordance with law as also the competent civil court.”

Being aggrieved, the writ petitioner has come up by way of this appeal.

From the affidavit of service filed in Court, we find that the Pradhan has refused to accept service. The private respondent, in spite of service, is not represented.

Having heard learned Counsel for the appellant, we are of the view that ends of justice will be served if the Pradhan is directed to dispose of the appellant's representation in accordance with law.

Accordingly, we direct the Pradhan of Berugram Gram Panchayat, being the respondent no. 4 herein, to dispose of the representation dated January 21, 2023 (page 34 of the stay application) in accordance with law, by a reasoned order, within a period of four weeks from the date of communication of this order along with a copy of the representation, after affording reasonable opportunity of hearing to all concerned parties including the appellant and the private respondent herein or their authorized representatives. The order so passed shall be communicated to the parties within a week from the date of the order. Needless to say, if the Pradhan finds substance in the complaint of the appellant/writ petitioner, appropriate remedial steps will be taken by the Pradhan including

referring the matter to any higher authority if the same is required by law.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted by the respondents.

The order impugned is set aside.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)