

26.04.2023
Court No. 19
Item no.37
CP

WPA No. 9473 of 2023

Sisir Krishna Goswami

Vs.

The State of West Bengal & Ors.

Mr. Subhendu Bhattacharjee

....for the petitioner.

Mr. Sourav Chowdhury

Ms. Sukla Das Chandra

.....for the State.

Despite service, none appears on behalf of the respondent nos. 5 and 6.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

The petitioner alleges inaction on the part of the panchayat authorities in disposing of his representation dated November 25, 2019 and March 27, 2023. The petitioner alleges that the respondent no. 6 had constructed a garage and a toilet over the boundary wall of the petitioner.

The rules require that a mandatory space must be left between two constructions. Further, whether such construction of garage and toilet had been permitted by the panchayat authorities, is not

available. Hence, the writ petition is disposed of with a direction upon the Tatla-II Gram Panchayat to dispose of the representations of the petitioner dated November 25, 2019 and March 27, 2023, 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 no. 6. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 6 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 no. 6. 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.)