

May 8, 2023
Sl. No. 13
Court No.19
s.biswas

WPA 10189 of 2023

Tamonash Das and another

vs.

The State of West Bengal and others

Mr. Soumen Bhattacharjee

... for the petitioner

Mr. Srijan Nayak

Ms. Rituparna Maitra

... for the State

Mr. Subhrangsu Panda

Ms. Ina Bhattacharya

... for the respondent nos.4 & 5

Mr. R. K. Jha

Mr. M. Thakur

... for the respondent nos.7 to 9

Ms. Mekhla Sinha

... for the Howrah Zilla Parishad

Affidavit of service filed by the petitioner is taken on record.

The writ petition has been filed with the allegation that the respondent nos.7 to 9 had constructed a factory without any sanction.

Learned advocate for the respondent nos.7 to 9 has handed over a sanction granted by the Juargari Gram Panchayat.

Although it is the contention of the petitioner that the construction is more than 5000 sq.feet and the panchayat authorities did not have any jurisdiction to grant such permission, this contention is not accepted only on the ground that the specification with regard to the height and plinth area and the categorisation of the permission granting authority on the basis of height and plinth area of the structure was introduced only after the

amendment of the West Bengal Panchayat Act, 1973, in 2017.

The instant plan was sanctioned in 2014, when the gram panchayat had the authority.

Learned advocate for the petitioner submits that even if the gram panchayat had sanctioned the plan, the construction was in deviation of the sanction plan.

Under such circumstances, the writ petition is disposed of without any orders as such plea is not available in the pleadings. If the petitioner has any grievance with regard to the construction being beyond the sanctioned plan, the petitioner is at liberty to approach the gram panchayat with specifications about the deviation. The representation of the petitioner shall be disposed of in accordance with law.

It is made clear, that the question of right, title, interest and encroachment shall not be decided by the panchayat authorities. The panchayat authorities shall restrict its decision only to the issue as to whether the alleged construction of the factory was in accordance with law or not.

A reasoned order shall be passed and communicated to the parties.

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
server copy of this order.

(Shampa Sarkar, J.)