

10.05.2023
Sl. No.24(DL)
srm

W.P.A. No. 10233 of 2023

Nitai Charan Sahoo & Ors.

Vs.

**The West Bengal Panchayat & Rural
Development Department & Ors.**

Mr. Nirmalendu Patra,
Mr. Debnarayan Patra

....for the Petitioners.

Ms. Piyali Sengupta,
Mrs. Rupsa Chakraborty

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.2, 3, 5, 6 and 10 to 16.

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. Thus, the writ petition is taken up in the absence of the respondent Nos.10 to 16, who will be given adequate opportunity of hearing by the said authority.

The petitioners allege that the respondent Nos.10 to 16 started raising a construction by encroaching a panchayat road. The said road is allegedly under the control and management of the Dhablat Gram Panchayat,

South 24-Parganas and situated at Plot Nos.264 and 265 of mouza Purusottampur, J.L. No.42.

The petitioners approached the panchayat authorities by filing a representation, which is annexure P-4 at page 38 of the writ petition.

Section 25 of the West Bengal Panchayat Act, 1973 casts a duty upon the gram panchayat to ensure proper maintenance of public streets and roads and Section 25(2), empowers the gram panchayat to remove any encroachment from such public streets within its control and management, upon granting opportunity of hearing to the encroachers.

The writ petition is disposed of with a direction upon the Dhablat Gram Panchayat, South 24-Parganas, to dispose of the representation of the petitioners, in accordance with law. An inspection of the premises shall be held in the presence of the petitioners, the respondent Nos.10 to 16 and thereafter necessary orders shall be passed upon hearing all the parties.

If the allegation of the petitioners is found to be correct and the alleged road is under the control and management of the gram panchayat, in that event, necessary directions shall be issued and steps shall be

taken for removal of the encroachment, strictly in accordance with law.

Needless to mention, if the allegation of the petitioners is found to be incorrect, such reasons shall be recorded in the order to be passed by the panchayat authorities.

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

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Dhablat Gram Panchayat, South 24-Parganas.

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.)