

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 11273 of 2023

**Aman Sardar
-Vs.-
State of West Bengal & Ors.**

**For the petitioner : Mr. Debajyoti Deb,
Mr. Tamal Ghosh,
Ms. Somdyuti Parekh**

**For the State respondents : Mr. Soumitra Bandyapadhyay,
Mr. Priobrata Batabyal**

Heard & Judgment on : 07.08.2023

Bibek Chaudhuri, J.

It is the grievance of the petitioner that the private respondent nos. 5 to 7 were filling up the side-drain of Basanti Kolkata Highway causing complete blockage of ingress and egress of the petitioner's house. First, they started filling up the said side-drain in the month of January, 2023. The petitioner made a complaint before the Public Works Department. They intervened and resisted the respondents from filling up of the said side drain. Thereafter on 4th April, 2023 the petitioner found that huge garbage materials, concrete slope and other materials were dumped at the spot to fill in the said side-drain. It is the grievance of the petitioner that if the

said side-drain is filled in it will cause logging of rainwater at the site and secondly, ingress and egress of the petitioner's house will be completely blocked.

Mr. Deb, learned Advocate for the petitioner has referred to Section 2(bb) of the West Bengal Highways Act, 1964 where Government road is defined in the following words: -

2(bb). "Government road" means a road, vested in the Government, or under the control and administration of the Public Works Department of the State Government, and includes-

- (i) the slope, berm, borrow-pits and side-drains of any such road;
- (ii) all lands and embankments vested in, or under the control and administration of, the said Public Works Department, and attached to a Government road.

Thus, side-drains are absolutely part of the Government road. It is contended on behalf of the petitioner that the petitioner made a representation before the District Magistrate, South 24-Parganas on 20th April, 2023 stating the said fact of illegal encroachment and obstruction caused to the petitioner thereby but the District Magistrate, South 24-Parganas has not disposed of the said representation.

In view of such circumstances, the Sub-Divisional Officer, Canning shall first direct the BL & LRO to make a survey of the spot to ascertain as to whether there was any illegal encroachment or not and submit a report to the Sub-Divisional Officer within 30 days from the date of this order.

The Sub-Divisional Officer shall consider the representation filed by the petitioner on 20th April, 2023 in presence of the representatives

of the authorities under the West Bengal Highways Act, BL & LRO and the petitioner within 30 days from the date of receipt of the report of the BL & LRO.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 03.