

30.08.2023
rc/ct.no.10
Item No.33

WPA No. 11737 of 2023
Md. Moslem Ali
Versus
The State of West Bengal & Ors.

Mr. Sandipan Maity ...for the petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar ...for the State

Affidavit of service filed in Court today is taken on record.

Report in the form of affidavit filed by the State-respondents is taken on record.

Pursuant to an order passed by this Court on January 05, 2022 in WPA No. 18218 of 2021 directing the concerned authority to conclude the proceedings initiated under Section 10 of the West Bengal Highways Act, 1964 (hereinafter referred to as "the Act of 1964") within three months from the date of communication of the order, the proceeding was taken to its logical conclusion by an order under Section 10(3) of the Act of 1964. The encroachers preferred an appeal against the said order under Section 10(4) the Act of 1964 on September 22, 2022 which is still pending consideration by the District Magistrate & Collector, Malda. The petitioner submitted a representation before the said authority seeking expeditious disposal of the appeal and prays for a direction upon the authority to dispose of the appeal expeditiously.

It is most unfortunate to note that an appeal preferred on September 22, 2022 under Section 10(4) of the Act of 1964 is still pending before the concerned authority being the 2nd respondent herein.

In view of the above, this Court is inclined to hold that the 2nd respondent be directed to dispose of the appeal expeditiously in accordance with law.

The writ petition is accordingly disposed of directing the 2nd respondent to dispose of the appeal under Section 10(4) of the Act of 1964 within two weeks from the date of communication of this order, upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and encroachers, in accordance with law.

With the above observation and direction this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)