

18.05.2023
Court No. 19
Item 18
CP

W.P.A. No. 11842 of 2023
Noorjamal Sekh
Versus
The State of West Bengal & Ors.

Mr. Sukdeb Sarkar
....for the Petitioner.

Ms. Sipra Majumdar
Ms. Prativa Ghatak
....for the State.

Mr. Gazi Faruque
Ms. Priyanka Mandal
....for the respondent nos. 8 to 10.

The petitioner relies on an information issued by the Pradhan, Gordewani Gram Panchayat, under the Right to Information Act, informing the petitioner that no construction on Plot No. 4067 of Mouza – Gardewani, corresponding to Khatian No. 5603, had either been sanctioned or permitted by the panchayat authorities.

Based on such information, the petitioner approached the Sub-Divisional Officer, Baruipur for necessary steps. A copy of the said letter was also marked to the gram panchayat.

The law mandates that the gram panchayat must first come to the conclusion that the alleged construction is without permission, upon satisfying

itself, the report of such enquiry by the gram panchayat is to be transferred to the Sub-Divisional Officer for further steps. The entire procedure has been provided for in Section 23(5) of the West Bengal Panchayat Act, 1973.

The writ petition is disposed of with liberty to the petitioner to file a detailed representation before the concerned gram panchayat. The gram panchayat shall dispose of the said representation, 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 nos. 8 to 11. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 8 to 11 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 nos. 8 to 11. 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.
- g) Needless to mention, the competent authority will demolish the structure if any unauthorized construction is detected, after the entire process is over.

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 receipt of the representation.

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

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.

Parties are also directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)