

11 15.09.2023
rkd Ct.15

W.P.A. 13058 of 2017

Jayanta Mondal

-vs-

The State of West Bengal & Ors.

Mr. Gazi Faruque Hossain,
Ms. Priyanka Mondal,
Ms. Varsha Roy

....for the petitioner.

Mr. Tanmoy Mukherjee,
Mr. Souvik das,
Mr. Soumava Santra

....for the respondent no.10.

Sk. Md. Galib,
Ms. Tanwishree Mukherjee

....for the State.

The present writ petition has been instituted, *inter alia*, praying for issuance of mandamus directing the concerned respondent authorities to restrain the respondent no.10 from running a poultry farm adjacent to the premises of the petitioner. Petitioner complains of nuisance due to running of poultry farm by the respondent no.10 just beside his residence.

During course of hearing notice of this Court has been drawn to one order dated 8th April, 2021 passed by a coordinate Bench on the writ petitions one filed by the petitioner and another by the respondent no.10.

While disposing of the writ petition being WPA 3190 of 2021 filed by the respondent no.10, the present writ petition though was considered by

the coordinate Bench but the same was not disposed of and was kept pending which is being considered today. Vide order dated 8th April, 2021 the coordinate Bench directed Sahajadapur Gram Panchayat through its Prodhan to consider and dispose of the representation made by the petitioners in accordance with law.

It has been submitted by learned advocates representing the parties that pursuant to such order dated 8th April, 2021 a decision has been taken by the Prodhan of Sahajadapur Gram Panchayat on 1st April, 2022. It has been submitted by the learned advocate representing the respondent no.10 that challenging the decision taken by the Prodhan as contained in the order dated 1st April, 2022 writ petition has been instituted being WPA 5012 of 2023 which is running in the cause list of a coordinate Bench having determination.

Considering the nature of the prayer couched in this writ petition it is found by this Court that the legality and validity of the order of the Prodhan dated 1st April, 2022 cannot be delved into in this writ petition.

It further appears on perusal of the said order dated 1st April, 2022 that whether the poultry

farm run by the respondent no.10 would further be operated or not will depend upon the steps to be taken by the concerned authority based on the observations made by the Prodhan in the order dated 1st April, 2022. Therefore, in view of the order passed on 1st April, 2022 during pendency of this writ petition the issue involved in this writ petition has become infructuous and accordingly the same stands dismissed.

However, this order shall not preclude the petitioner to take steps in accordance with law in view of the order passed by the Prodhan on 1st April, 2022.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)