

11.04.2023
Court No. 19
Item No.57
CP

W.P.A. No. 11571 of 2022

Ajit Ghosh

Versus

The Pradhan, Jetia Gram Panchayat & Ors.

Mr. Srikanta Paul

....for the Petitioner.

Mr. Rajdeep Bhattacharya

....for the respondent no. 4.

Mr. Jahar lal De

Mr. Rudranil De

....for the State.

The petitioner alleges that the respondent no. 4 had raised a construction on Plot No. 82/304 of Mouza – Nanna without any permission from the Jetia Gram Panchayat.

An answer to the query under the Right to Information Act has been submitted before the court. The SPIO of the said gram panchayat by a letter dated December 24, 2022, intimated the petitioner that no permission for construction had been given to the respondent no. 4.

It further appears that on September 6, 2022, Jetia Gram Panchayat had issued a ‘Stop Work’ notice upon the respondent no. 4.

Learned advocate for the respondent no. 4 denies the allegation and submits that only repairing

and certain modification to an existing structure had been carried out, but no new construction had been made.

Learned advocate for the State respondents has also filed another 'Stop Work' notice dated June 17, 2022, issued by the gram panchayat.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with a direction upon the Jetia Gram Panchayat to treat the writ petition as a representation and dispose of the same 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 no. 4. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 4 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. The contention of the respondent no. 4 that only repairing and modification had been carried out, shall also be decided.
- d) Such report shall be handed over to the parties.
- e) Permission would be necessary under the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 for repair and addition and alteration except when there are no structural changes or addition of a projection or increase in the covered area or when there is no addition to the lower level and upper level of the construction.
- f) A hearing shall be given to the petitioner and the respondent no. 4. 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.

g) 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.

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 communication of this order.

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

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance of this order.

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.

(Shampa Sarkar, J.)