

17.04.2023
Sl. No.69(ML)
srm

W.P.A. No. 12210 of 2022

Bidhan Chandra Das

Vs.

The State of West Bengal & Ors.

Mr. Radhasyam Maiti,
Mr. Manorajnan Jana

....for the Petitioner.

Despite service, none appears on behalf of the respondents. Affidavit-of-service is taken on record.

The Court is not inclined to pass mandatory directions as prayed for, but deems it fit to send back the matter before the competent authority for necessary steps. Thus, the writ petition is taken up in the absence of the respondent Nos.9 to 12, who will be given adequate opportunity of hearing by the authority.

Liberty is given to the petitioner to implead the Sub-Divisional Officer, Kakdwip, as a respondent in this proceeding, here and now.

The petitioner submits that the Pradhan of Dhaspara Sumatinagar-I Gram Panchayat, South 24-Parganas failed and neglected to take steps pursuant to the complaint filed by the petitioner to the effect that the respondent Nos.9 to 12 had raised an unauthorised

construction on Plot Nos.92 and 92/2432 of mouza Dhaspur, without any permission.

Under such circumstances, the writ petition is disposed of with a direction upon the Dhaspara Sumatinagar-I Gram Panchayat, South 24-Parganas to dispose of the representation of the petitioner which is at page 21 of the writ petition, in accordance with law.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.9 to 12, with 48 hours advance notice to the petitioner and the respondent Nos.9 to 12.
- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioner as also the respondent Nos.9 to 12.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and in violation of the building rules and had been continuing, the

authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to all the parties. 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The Court has not gone into the merits of the claims of the petitioner and the issues raised, shall be decided by the competent authority, independently.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Dhpara Sumatingar-I Gram Panchayat, South 24-Parganas as also the Sub-Divisional Officer, Kakdwip.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)