

11.07.2023

Item No.3

Ct. No.1

PG/KS

W.P.A.(P) 326 of 2023

Tarun Kumar Adak & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Sarwar Jahan

Ms. Pritikana Gantait

.....for the Petitioners

Mr. Samrat Sen, Ld. AAAG

Mr. N. C. Bihani

.....for the State

1. By this public interest litigation, the petitioners seek for a direction to implement the order passed by the Block Development Officer, Moyna dated 13th January, 2023.
2. Earlier the petitioners had approached this Court making a complaint that the embankment of a water body has been damaged and a road has to be properly formed for the use of the inhabitants of the village, which is under the jurisdiction of the 9th and 10th respondents/Gram Panchayat. The said writ petition in W.P.A.(P) 487 of 2022 was disposed of by order dated 27th September, 2022 directing the 3rd respondent therein namely, the District Magistrate, Purba Medinipur to

consider the petitioners' representation and pass necessary orders. Pursuant to such direction, the District Magistrate, Purba Medinipur had directed the Block Development Officer, Moyna to take up the matter and after notice to all concerned, the Block Development Officer has passed the order dated 13th January, 2023, the operative portion of which reads as follows:-

“On consideration of the above fact, it was decided in the presence of the Secretary, Gokulnagar Gram Panchayat that

(a) the embankment should be upgraded to usable condition by the Bhery – Owners or Gram Panchayat authorities with their available fund.

(b) the Secretary, Gokulnagar Gram Panchayat is instructed to monitor the work and report to the undersigned from time to time.”

3. The above direction has been issued to the respondent nos.9 and 10/Gram Panchayat.
4. The Gram Panchayat has written a letter to the Block Development Officer on 24th March, 2023 stating that the Jhil holder only stuck some mud on the road randomly without any side protection, dressing and filling by morrum. It is not clear as to what is the jurisdiction of the Gram Panchayat to sit in appeal over the order passed by the Block Development Officer, which has been passed after notice to all concerned and the Secretary of the Gram Panchayat was also

present in the hearing, which was conducted by the Block Development Officer.

5. Therefore, the Gram Panchayat has no jurisdiction to sit in appeal over the order passed by the Block Development Officer and has to implement the said order in its letter and spirit.
6. Though the respondent nos.9 and 10 have been served and affidavit of service has been filed, none appears for the respondent nos.9 and 10.
7. In terms of the directions issued by the Block Development Officer, if the Bhery owners are not willing to upgrade the road to the usable condition, then a direction has been given to the Gram Panchayat. From the present factual situation, it appears that the Bhery owners are not agreeable to upgrade the road to a usable condition. Therefore, in terms of the directions issued by the Block Development Officer, it is the Gram Panchayat, which is to implement the order.
8. In the light of the above, the writ petition is disposed of by directing the respondent nos.9 and 10 to implement the directions issued by the Block Development Officer, Moyna dated 13th January, 2023 in its letter and spirit within a period of 15 days from the date of receipt of server copy of this order.

9. The District Magistrate, Purba Medinipur is directed to ensure compliance of the said order and direct the Gram Panchayat to send compliance report.
10. No costs.
11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)