

01.08.2023

Item No.6

Ct. No.1

PG/KS

W.P.A.(P) 346 of 2023

Iswar Pal & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Dibyajyoti Raha

.....for the Petitioners

Mr. Samrat Sen, Ld. AAAG

Ms. Manali Ali

.....for the State

Mr. Kuntal Banerjee

.....for the respondent no.11

Mr. Soumya Majumder

Ms. Amrita Pandey

.....for the respondent no.12

Ms. Shivangi Thard

.....for the Shyam SEL & Power Ltd.

1. The petitioners by way of filing this public interest writ petition seeks for implementation of an order dated 24th February, 2023 passed by the Sabhadhipati, Paschim Burdwan Zilla Parishad.

The operative portion of the order reads as follows:-

“1. JL No. 51, Plot No 471 having an area 2.14 acres/cottah/decimal shall be recorded as road, which after restoration shall be used for public purpose.

2. As per the report of BLLRO Jamuria, Plot no. 471 in Mouza Mamudpur, JL No 51 Classification Path Area 2.14 Acre is in the jurisdiction of Asansol Municipal Corporation, Ward no. 7. Therefore Paschim Bardhaman

Zilla Parishad is not having any access to deal with the said road.

3. Sona Brick & Gagan Ferotech LTD since they have purchased the said land with adequate information and knowledge that it is a road & being used for public purpose, hence, they are duty bound to discharge their obligation to the extent as possible.

4. In view of the aforesaid S.D.O. Asansol is hereby directed to take up the issue with AMC and to cause removal of encroachment with aid of Mayor, A.M.C.”

2. According to the petitioners, in terms of the above order, the Sub-Divisional Officer, Asansol was required to take up the issue with the Asansol Municipal Corporation and cause removal of the encroachment.
3. The learned advocate appearing for the 12th respondent submitted that the writ petition is not a bona fide public interest litigation but sponsored by the 11th respondent. There is an intervenor, who seeks to intervene in the proceedings stating that the intervenor is the owner of the land in question, which has been purchased by them. In any event, all the parties were heard and the Zilla Parishad has passed an order on 24th February, 2023.
4. As long as the order has not been questioned in the manner known to law, the authorities are bound to implement the directions. With regard to the bona fides of the petitioners, the order

dated 24th February, 2023 was passed by the Zilla Parishad in terms of the directions issued in W.P.A.(P) 274 of 2022 dated 8th August, 2022. Thereafter, the parties were heard and the order has been passed. Therefore, at this juncture, we cannot examine the bona fides of the petitioners as the earlier order passed by this Court has worked itself out and culminated in an order by the Zilla Parishad.

5. Thus, we direct the concerned Sub-Divisional Officer, Asansol to implement the order passed by the Zilla Parishad dated 24th February, 2023 and the implementation of the said order will be subject to any challenge that may be made either by the 12th respondent or any third party to the said order.
6. Let the above directions be complied with within a period of six weeks from the date of receipt of server copy of this order.
7. With the above observations, the writ petition stands disposed of.
8. No costs.
9. 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.)