

25.04.2023
Court No. 19
Item 171
CP

W.P.A. No. 16644 of 2022
Syed Mozakkar Hossain & ors.
Vs.
The State of West Bengal & Ors.

Mr. Sani Hossain
Ms. Salma Sultana Shah
Mr. Miraj Hossain

....for the petitioners.

Mr. Sudipto Panda
Mr. Subrata Ghosh

....for the State.

Mr. Mahammad Mahmud

.....for the respondent nos. 10 to 20.

Despite service, none appears on behalf of the panchayat authorities.

The petitioner alleges that the respondent nos. 10 to 12 had raised illegal constructions on a panchayat road, owing to which the ingress and egress of the villagers to the burial ground and to the mosque, have been disturbed.

Learned advocate for the respondent nos. 10 to 20 submits that only the private lands of such respondents have been fenced. No unauthorized construction had been raised on any village road.

The police authorities have filed a report which indicates that there is a long standing dispute

amongst the villagers over the use of such road. Prosecution under Section 107 of the Cr.P.C. has also been submitted.

Section 25 of the West Bengal Panchayat Act, 1973 provides that it shall be the duty of the panchayat authorities to maintain and manage public road and keep them free from all encumbrances. Sub-Section (2) of Section 25 authorizes the gram panchayat to remove encroachment from any public street or road under the control and management of the gram panchayat.

Under such circumstances, the writ petition is disposed of with a direction upon the Makalpur Gram Panchayat to treat the writ petition as a representation and dispose of the same in accordance with law.

While deciding the matter, an inspection shall be held in presence of the parties including the villagers who use such road for their ingress and egress. A demarcation of the road shall be made. Thereafter, upon hearing all the parties, necessary orders shall be passed.

At the time of inspection and demarcation, assistance of the Block Land & Land Reforms Officer as also the Amin shall be taken for the field enquiry and the measurements in order to demarcate the road. The report of inspection shall be handed over to

the parties and the parties shall be allowed to respond to such report.

If any encroachment on such road is detected, steps shall be taken for removal thereof, strictly in accordance with law.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of two months from the date of communication 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.)