

03.05.2023
Court No. 19
Item 102
CP

WPA No. 18528 of 2022

Sri Sanjit Kumar Mondal
Vs.
The State of West Bengal & Ors.

Mr. Sambhunath De
Mr. Sumen Karati

....for the petitioner.

Mr. Sujoy Sarkar
Mr. Rahul Chachan

....for the respondent no. 8.

Mr. Narayan Ch. Bhattacharyya
Ms. Sujata Ghosh

...for the State.

Affidavit of service is taken on record.

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

The petitioner alleges that the respondent no. 8
has been raising a construction on L.R. Plot No. 96
of Mouza – Rampur, without any permission.
Reference has been made to a reply given to the
petitioner under the Right to Information Act. The
SPIO intimated the petitioner that no permission had
been granted to Sri Dibas Chandra Ojha for
construction on Plot No. 96.

Learned advocate for the respondent no. 8
denies such allegations and submits that permission

has been applied for and no new construction has been made. Only an age old and dilapidated construction was repaired in some places and such repairing did not require any prior permission. It is further submitted that the construction was made sometime in 1960 or earlier and the Panchayat Act had not come into force at the relevant point of time.

The disputed questions of fact cannot be gone into by the writ court. 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 dispose of the representation of the petitioner which is annexure P-3 at page 20 of the writ petition, 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. 8. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 8 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 inspection report shall also indicate the approximate age of the building and whether any addition, alteration and construction had been made on the same under the garb of repairing or not.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent no. 8. 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.
- 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 Section 23(5) of the West Bengal Panchayat Act.

- g) Needless to mention, that the competent authority will demolish the structure if any unauthorized construction is detected, after the entire process is over.

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.)