

ML 121
17.05.2023
Court. No. 19
GB

WPA 19185 of 2022

Ashadulla Mir
Vs
The State of West Bengal & Ors.

*Mr. Shubham Gupta,
Ms. Nabamita Kapat*

...for the Petitioner.

*Mrs. Pampa Dey Dhabal,
Mr. Nikhil Kr. Gupta*

...for the Respondent No.8.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioner alleges that the panchayat authority had wrongly come to a finding that the petitioner had extended the cantilever by three feet, thereby, violating the sanction granted by the said gram panchayat.

By the order dated June 24, 2022, the Kashipur Alampur Gram Panchayat, has asked the petitioner to remove such deviation within three days from issuance of the notice. The law is clear that the panchayat authorities upon coming to a finding of illegal construction or construction beyond any plan sanctioned by the authority should transmit the records along with the finding to the Sub-Divisional Officer under Section 23(5) of the West Bengal Panchayat Act, 1973 for necessary action.

The Sub-Divisional Officer, in turn, is required to hear the parties once again, especially the party responsible for such construction and take necessary steps in accordance with law.

The writ petition is disposed of with a direction upon the Kashipur Alampur Gram Panchayat to forward the report along with all other documents in support of such finding to the Sub-Divisional Officer, Alipore Sadar, if not already done. The Sub-Divisional Officer shall act and proceed in accordance with law and necessary steps shall be taken if the authority ultimately comes to a finding that there had been illegal construction. A reasoned order shall be passed and communicated to all concerned. Prior to disposal of the matter, a hearing shall be given to the parties by the Sub-Divisional Officer.

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