

22.02.2023
Sl. No.3(DL)
srm

W.P.A. No. 18841 of 2018

Md. Solim Molla

Versus

The State of West Bengal & Ors.

Mr. Saumitra Banerjee,
Mr. Giasuddin Mulla

....for the Petitioner.

Mr. Lalit Moham Mahata,
Mr. Rudranil De

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent No.7.

The Court is not inclined to pass mandatory directions as prayed for. The matter is being sent back to the competent authority, for necessary steps. The writ petition is thus, taken up in the absence of the respondent No.7 who will be given adequate opportunity of hearing by the authority.

The petitioner alleges that the respondent No.7 has started a construction without any permission on Plot No.2452 of mouza Bawkhola.

The petitioner approached the Pradhan of Kumarjole Gram Panchayat, North 24-Parganas, with such allegation of illegal construction. As the Pradhan did not

take any steps in the matter, this writ petition has been filed.

Under such circumstances, the permission granting authority, that is the Kumarjole Gram Panchayat, District-North 24-Parganas, is required to dispose of the representation of the petitioner which is annexure P2 at page 16 to the writ petition, in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) Inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent No.7, with 48 hours advance notice to the petitioner and the respondent No.7.
- b) Such report shall be handed over to the petitioner as also the respondent No.7.
- c) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was not in accordance with law, the authorities may take interim measures by stopping such construction.
- d) A hearing shall be given to all the parties. 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.

- e) A reasoned order shall be passed and communicated to the parties in respect of the alleged construction. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the competent authority.

The question of title of the parties shall not be gone into by the concerned gram panchayat. The only issue to be decided is whether the alleged construction of the respondent No.7 has been made with permission or in violation of such permission.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Kumarjole Gram Panchayat, District-North 24-Parganas.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)