

August 25, 2023
ARDR (17)

WPA 20642 of 2023

Mantu Gharami & ors.
Vs.
The State of West Bengal & ors.

Adv. Debasis Banerjee,
Adv. Kartik Kumar Roy,
Adv. Rakesh Jana,

...for the petitioners.

Adv. Chandi Charan De,
Adv. Anirban Sarkar,

...for the State.

Notice issued under Section 10(1) of the West Bengal Highways Act, 1964 upon the petitioners is assailed in the writ petition.

It is contended on behalf of the petitioners that the petitioners are street vendors/hawkers who run their temporary shops in the land adjacent to the Purba Bishnapur – Raidighi Road at Raidighi Bazar for the last forty years and cannot be termed as encroachers on PWD road. The petitioners submitted an application under Section 8(2) of the West Bengal Highways Act, 1964 on 21st August, 2023 before the concerned authority for permission to use/occupy the plot in question and issuance of *patta* in their favour. The said application is yet to be considered. The petitioners pray for a direction upon the authority to consider the said application before proceeding with the notice under Section 10(2) of the Act of 1964.

It is submitted on behalf of the respondents that the 4th respondent be directed to consider the application submitted by the petitioner in accordance with law.

In view of the above, the writ petition is disposed of directing the 4th respondent to consider and dispose of the application submitted by the petitioners dated 21st August, 2023 within one month from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioners, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within one month thereof.

Pending disposal of the application, no further steps shall be taken by the concerned authority in terms of the notice issued under Section 10(1) of the Act of 1964.

With the aforesaid directions, the writ petition, being WPA 20642 of 2023 is disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)