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jdt.

**10.04.2023**  
jb.

**W.P.A. 20951 of 2019**  
**(Tarapada Paul & Ors. vs. State of West Bengal & Ors.)**

**Mr. Sujit Bhunia**  
**Mr. Gourav Ghoshal**  
**.... For the Petitioners**  
**Mr. Asim Kr. Ganguli**  
**Abdus Salam**  
**.... For the State**

Report in the form of affidavit submitted on behalf of the State respondents is taken on record. The stand taken by the State in the report is rather strange. The State admits that the private respondents have encroached upon a portion of the PWD road acquired by the State, but at the same time no proceeding under Section 10 of the West Bengal Highways Act, 1964 has been initiated by the State against the said encroachers only on the ground that the egress and ingress of the petitioners have not been obstructed by the encroachers. Such stand is unknown to law.

Section 10(1) of the West Bengal Highways Act, 1964 is set out:

- “10.(1) If any person, --
- (a) is found to have made an encroachment on any road, street, path, way or land which is declared to be a highway under sub-section (1) of section 3, or
  - (b) makes an encroachment on a highway in contravention of the provisions of section 8, or
  - (c) does not remove an encroachment on the expiry or cancellation of any permit granted to him,

the Highway Authority or any officer authorised by him in this behalf shall serve a notice on him requiring him to remove the encroachment and restore the highway to its original condition within the period specified in the notice.”

The Act does not give any succour to the illegal encroachers merely on the ground that their encroachment has not obstructed the egress and ingress of the petitioner as it is sufficient if any portion of the road/land has been encroached upon, which is admitted in the present case.

In view of the above, this Court is inclined to hold that since encroachment upon the PWD road by the private respondents has been admitted by the State respondents, the State respondents be directed to initiate proceedings under Section 10 of the West Bengal Highways Act, 1964 immediately and take the proceeding to its logical conclusion within three months from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondents, in accordance with law.

With the above directions, the writ petition being WPA 20951 of 2019 is disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

**(Suvra Ghosh, J.)**