

14-15 03.04.2023
RP Ct. No. 01
AN

WPA 19663 of 2011
Gopal Balo & Anr.

vs.

The State of West Bengal & Ors.

With

WPA 19665 of 2013

Asis Kumar Maity & Ors.

vs.

The State of West Bengal & Ors.

Mr. Tapan Kumar Mukherjee, Sr. Adv., AGP
Mr. Pranab Halder
Mr. Somnath Naskar

... for the State

In Re : WPA 19633 of 2011

1. This writ petition has been filed praying for a direction upon the respondent nos.6 and 7 to take legal action against the private respondent for the alleged unlawful work by damaging the Damodar embankment and not to allow the private respondent to extract sand from the restricted zone under Damodar River, Mouza-Gohagram.

2. It appears from the record that the matter has been adjourned from time to time and directions were issued to the authorities to file their report. Accordingly, the Block Land and Land Reforms Officer, Galsi-I, Purba Bardhaman has submitted its report on 3rd June, 2022. In the report it has been stated as follows:-

“5. As regards, the restricted zone of the said left embankment of the river Damodar, no extraction of sand is/was allowed as per the prevailing Rules. It is most humbly submitted before the Hon’ble Court that there are numerous plots falling within the restricted zone along the

embankment of river Damodar of the said two Blocks i.e. Galsi-II and Galsi-I. A separate list showing the detailed plot numbers of the restricted zone of the left embankment of the river Damodar was previously submitted, before the Hon'ble Court. As per my report, there is no extraction done within 200 meters along both sides of exbankment and as per report of BL&LRO, Galsi I there are no extraction done within 200 metres from left embankment of river Damodar and.

The two reports of are marked as R-1 collectively.

6. I further state that there are no sand blocks within Galsi-I block and 24 number of sand blocks are running under e-acution and 04 number sand blocks are under long terms mining lease from which 02 sand blocks have stopped functioning within the jurisdiction of my Block.

7. It is stated that the District Authority is never in collusion with private respondent and are always vigilant to protect the embankment and also the interest of the villagers. Frequent enforcement programmes for preventing illegal transportation of sand as per law, are being conducted by the entrusted Officers including the BL&LRO, Galsi-I & Galsi-II respectively.

8. That the Blocks as related to this writ petition are the BL& LRO Galsi-I and Galsi-II respectively. The concerned BL&LROs of the said two Blocks are in continuous vigil by conducting stringent raid programmes and putting outright effort in prevention of illegal transportation of sand in their respective jurisdiction. The entrusted Officers of the said BL&LRO offices conduct raid duties on a regular basis and the detected offenders were charged for illegal transportation of sand as penalty according to the gravity of offence, as per the prevailing rules."

3. The Executive Engineer-I, Damodar Canal Division has filed a report dated 22nd June, 2022 along with a schematic diagram of the present status, GPS photographs of the spot, the present status report of the Sub-Divisional Officer, Edilpur (I) Sub-Division, Purba Bardhaman and other action taken in that regard. In the said report it has been stated that the land appears to be barren land and the plots are located around 200 meters far from left embankment of river Damodar. The main river course is flowing away about a distance of 1400 meter (approx) from the said plots. The Sectional Officer, Guhagram Section, Edilpur Sub-Division had intimated the Officer-in-Charge, Galsi Police Station by a communication dated 30th August, 1999 stating that in case of unauthorized sand extraction from the restricted zone, legal action against the miscreants has to be taken.

4. The writ petition was filed in the year 2011 and the status reports filed by the authorities reveal the present status. Therefore, we are of the view that the writ petition can be disposed by passing the following order.

5. The status report submitted by the authorities are taken on record and the authorities are directed to ensure that no illegal extraction of sand takes place in the restricted zone and they are directed to keep continuous vigil of the area by conducting surprise inspection etc. We give liberty to the petitioner to approach the authority by way of a fresh representation in the event the undertaking given by the authorities in their reports which we have

treated as part of the order is being violated or not followed.

6. Needless to the state that the authorities should not wait for any third party to bring to their notice about any illegal extraction of sand as it is the duty of the authorities concerned to protect the water bodies, rivers and river course even if they receive any information. Therefore, the authorities are bound to conduct surprise inspection and, in the event, if any third party gives any information, action should be initiated based on such information by following due process of law.

7. Hence, WPA 19663 of 2011 is **disposed of**.

In Re : WPA 19665 of 2013

1. The allegations contained in WPA 19665 of 2013 are with regard to a brickfield alleged to have been established within the restricted zone. A report dated 10th May, 2022 in that regard has been filed by the Block Land and Land Reforms Officer, Shyampur-I, which states as follows:

“In compliance with the order passed by the Hon’ble High Court, Calcutta, the Block Land & Land Reforms Officer, Shyampur I submitted a report on 21.04.2022, that a spot enquiry was held on 13.04.2022 by the Revenue Inspector, Dingakhola G.P. in Mouza Rameshwarpur, JL 111, wherein the Bishnu Brick Works, Jana Brick Works and Damodar Brick Works are located.

In such filed enquiry report, it is revealed that the Bishnu Brick Works is situated in the bank of river Damodar. In the south, the brick work is occupying 100-120 feet of the Irrigation Embankment.

It is also disclosed from such report that Jana Brick Works is also operating beside the Damodar river. The instant brick work is somewhat occupying 100 feet and somewhere 200 feet of the Irrigation land. It is also occupying LR plot 1536 recorded classification Danga which is included in Khatian no.1 excluding the portion used for smashan and playground.

It is further revealed that Damodar Brick Works is also operating a bit away from the river bank but the brick work has filled up a part of plot 1792 recorded as Khal and is using the same for the purpose of running the brick work.

That on 06.05.2022 vide memo no.LAW/DL&LROHow/02.2022/1300/LR, the BL&LRO, Shyampur I was directed to issue "Stop Work" notice and subsequently BL&LRO, Shyampur I has issued a Stop Work notice on 06.05.2022 vide memo no.355/BL(Shy-I)/2022, which was duly received by the Brick Works."

2. The report is placed on record and the authorities, more particularly, the Block Land and Land Reforms Officer, Shyampur-I is directed to enforce stop work notice and ensure that no operation in the brickfield is allowed to be done within the restricted zone. Upon failure on the part of the authorities to keep up their commitment given in the report, stringent action will be taken against them and they will be made liable for such lapses.

3. With the aforesaid directions, the instant writ petition is **disposed of**.

(T. S. Sivagnanam)
Acting Chief Justice

(Hiranmay Bhattacharyya, J.)