

S/L 13
2.1.2023
Court. No. 19
sn

W.P.A. 25280 of 2022

Bhagwadar Natua & Anr.
VS
The State of West Bengal & Ors.

Sk. Mustak Ali

...for the Petitioners.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee

...for the State.

Despite service of notice upon the Pradhan, Kankandighi Gram Panchayat as also the respondent no.10 through the Inspector in Charge, Raidighi Police Station, none appears on behalf of the said respondents.

The report filed by the learned advocate for the State respondents containing the factum of service upon the Pradhan, Kankandighi Gram Panchayat as also the respondent no.10 is taken on record. It also appears that the orders dated December 12, 2022 and December 19, 2022 passed by this Court have been communicated to the concerned respondents. The writ petition is taken up for hearing in their absence.

The petitioners allege that the respondent no.10 had raised an unauthorized construction on plot no. 1832 of mouza Paschim Jatardeul without any sanction and without conversion of the land from Sali to Bastu.

Reference has been made to Section 23(5) of the West Bengal Panchayat Act, 1973 as also Rule 26 of the West Bengal Panchayat(Gram Panchayat Administration) Rules, 2004.

Without going into the merits of the allegation made by the petitioners, this writ petition is disposed of with a direction upon the Kankandighi Gram Panchayat to dispose of the representation of the petitioners, which is at page 29 of the writ petition, in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no.10. An advance notice of the inspection shall be served upon the petitioners and the respondent no.10 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and had been continuing, the authorities may take interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties. The question of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.

- e) A hearing shall be given to the petitioners and the respondent no.10. 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. All points raised by either party, will be decided.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

The entire exercise shall be completed within a period of four 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.)