

19.01.2023
Court No. 19
Item 853
CP

WPA No. 26852 of 2022

Gopika Ranjan Bag
Vs.
The State of West Bengal & Ors.

Mr. Mridul Kanti Sasmal
...for the petitioner.

Ms. Monjuli Chowdhuri
Ms. Mekhla Sinha
...for the Howrah Zilla Parishad.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the
respondent nos. 10 and 11.

As the court is not inclined to pass any
mandatory order as prayed for, but is relegating the
matter before the authority empowered by law to
decide the issue of unauthorized construction, the
matter is taken up in the absence of the said
respondents.

The petitioner alleges that the respondent nos.
10 and 11 have encroached a portion of a road
maintained by the Howrah Zilla Parishad. The
petitioner also alleges that the thatched structure on
a road maintained by the Howrah Zilla Parishad has
obstructed the petitioner's ingress and egress. The
contention of the petitioner is that the area has been
recorded in the name of the A.D.R., District Board.

This court is not inclined to go into the factual dispute. The petitioner has already approached the Howrah Zilla Parishad with his grievance.

The representation which is annexure P-3 at page 27 of the writ petition will be disposed of in accordance with law by the District Engineer and steps shall be taken for removal of the same, provided the following conditions are satisfied:

- a) The thatched structure had been erected on government land maintained by the Howrah Zilla Parishad.
- b) That the Howrah Zilla Parishad had the authority to remove such construction on the basis of its bye-laws or other applicable law and the notifications.
- c) That the thatched structure did not encroach any private land in respect of which neither the State nor the Zilla Parishad has any right, title and interest.

An inspection shall be made by the authority in the presence of the parties to ascertain the above. A hearing shall be given to all the parties. Thereafter, a reasoned order shall be passed and communicated to all the parties.

If the authority finds that the area on which such thatched structure had been erected by the respondent nos. 10 and 11, was not under the

control and supervision of the Howrah Zilla Parishad, the authority competent to decide the matter shall be forwarded all the documents with a copy of this order, for further steps and the parties shall be informed accordingly.

No action shall be taken if it appears to the Zilla Parishad that the dispute was private in nature.

The court has not gone into the merits of the claims.

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.)