

S/L 7  
04.01.2023  
Court. No. 19  
GB

W.P.A. 28162 of 2022

Jiarul Mondal  
VS  
The State of West Bengal & Ors.

*Mr. Manas Kumar Das,  
Mr. Mobaidur Hossain.*

*...for the Petitioner.*

*Mr. Rabindra Narayan Datta,  
Mr. Sutanu Chakraborti.*

*...for the State.*

*Mr. Somnath Adhikary,  
Ms. Chandrima Debnath,  
Mr. K. Mondal.*

*...for the Respondent No.10.*

Affidavit-of-service filed in Court today, be kept with  
the record.

The petitioner alleges that the respondent no.10 had constructed a shop on a panchayat land by the side of the panchayat road. Both the petitioner and respondent no.10 are residents of Malopara gram panchayat. The petitioner alleges that the panchayat authorities ought to have removed such unauthorized encroachment from the panchayat land as the law empowers the authority to do so.

The learned advocate for the respondent no.10 submits that a shop room had existed by the side of the panchayat road contiguous to the wall of the petitioner for more than 30 years. The petitioner had constructed his dwelling house much later. It is further submitted that several suits and proceedings before the Sub-Divisional Magistrate are pending over such dispute.

The police report also indicates that pursuant to an investigation held by the concerned police station, the petitioner has been charge-sheeted. The petitioner was prima facie found guilty of offences under Section 341, 427, 323, 307 and 34 of the Indian Penal Code. The police report is taken on record.

Without going into the disputes which are subject matters of the civil suit and the issues which are before the learned criminal court, this Court disposes of the writ petition with a direction upon the respondent no.8, that is, the Malopara gram panchayat, to treat the writ petition as a representation and dispose of the same in accordance with law, upon hearing the parties. The hearing shall be preceded by an inspection in the presence of the parties. The Block Land and Land Reforms Officer shall also provide assistance so that the area on which the tea stall of the respondent no.10 has been constructed can be demarcated. Such demarcation would be necessary to ascertain whether the tea stall falls within any land or public street which has been vested in the panchayat and is controlled and managed by the concerned gram panchayat. Whether the gram panchayat permitted such tea stall shall also be looked into. A reasoned order shall be passed and communicated to all concerned.

This order is being passed in consonance with the provisions of Section 25(2), (3) and (4) of the West Bengal Panchayat Act, 1973.

If the allegation of the petitioner is found to be genuine, in that event, steps shall be taken as per the

provisions mentioned hereinabove. If the allegation is not found to be correct and there is no obstruction on the panchayat road no further steps need be taken by the panchayat authorities. The reasoned order shall clearly provide the factual findings.

This Court has not gone into the merits of the allegations raised in the writ petition. The panchayat authority shall decide the entire issue independently.

The entire exercise shall be completed within a period of three months from the 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.)**