

03.01.2023
Sl. No.52(ML)
srm

W.P.A. No. 28261 of 2022

Maya Rani Giri & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Saptarshi Ray,
Mrs. Kakali Das Chakraborty
....for the Petitioners.

Mr. Naba Kumar Das,
Mrs. Subhra Das
...for the State-respondents.

Mr. Saunak Bhattacharya,
Mr. Sumitava Chakraborty,
Mr. Sounak Mandal
.....for the Respondent Nos.6 & 8.

Mr. Hariram Singh,
Ms. Shilpa Das
...for the Respondent No.10.

Affidavit-of-service is taken on record.

The petitioners allege that the Pradhan, Mugkalyan Benapur Gram Panchayat, District-Howrah, has failed and neglected to take steps as per Section 23(5) of the West Bengal Panchayat Act, 1973.

Relying upon certain orders passed by this Court while disposing of an earlier writ petition and in the contempt jurisdiction, the petitioners allege that the panchayat authorities although submitted before the Court

that a decision had been arrived at with regard to the unauthorised construction of the respondent No.10, no follow up steps have been taken.

Mr. Mondal, learned Advocate appearing on behalf of the panchayat authorities has handed over a letter addressed to the Sub-Divisional Officer, Uluberia, Howrah dated December 6, 2022. Along with the said letter, the report and findings of the panchayat authorities with regard to the alleged unauthorised construction of the respondent No.10 has been transmitted to the Sub-Divisional Officer for necessary action under Section 23(5) of the West Bengal Panchayat Act, 1973.

The learned Advocate for the respondent No.10 submits that the construction was an old one and as such exempted from the applicability of Section 23 of the West Bengal Panchayat Act, 1973.

As the matter is already before the Sub-Divisional Officer, Uluberia, Howrah, the said authority shall proceed in accordance with law upon granting an opportunity of the hearing to the parties. As the issue with regard to the age of the building has been raised by the petitioners, such issue shall also be determined. Although, the learned Advocate for the petitioners points out to the admission made by the respondent No.10 at the hearing granted by

the panchayat authorities, this Court is of the view that the Sub-Divisional Officer shall act independently and take all necessary steps in accordance with law.

A reasoned order shall be passed and communicated to the parties. If the construction is found to be illegal, follow up steps shall be taken in accordance with law.

The entire exercise shall be completed within a period of six weeks from the date of communication of this order.

This Court has not gone into the merits of the claims and counterclaims of the parties.

As the construction has been found to be illegal by the panchayat authorities, no further construction shall be made.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)