

10.01.2023
Sl. No.8(DL)
srm

W.P.A. No. 28632 of 2022
Ananda Kumar alias Ananda Mahato
Vs.
The State of West Bengal & Ors.

Mr. Ivan Roy,
Mr. Nirupam Dutta

....for the Petitioner.

Despite service, none appears on behalf of any of the respondents. Affidavit-of-service is taken on record.

As the Court is not inclined to pass mandatory directions as prayed for, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The petitioner alleges that the respondent Nos.8 to 17 have started raising an unauthorised construction on Plot No.4247 under mouza Arsha, District-Purulia without any sanction from the Arsha Gram Panchayat. Further allegation is that the land has not been converted to '*bastu*'. A representation was filed before the panchayat authorities on November 28, 2022. The petitioner alleges that such representation was not disposed of by the concerned authority.

Without going into the merits of the writ petition, this Court is of the view that the representation of the petitioner must be disposed of by the appropriate permission granting authority, that is, the Arsha Gram Panchayat.

As such, the writ petition is disposed of with a direction upon the competent authority of the Arsha Gram Panchayat, District-Purulia, to dispose of the representation of the petitioner dated November 28, 2022 being annexure P-3 to the writ petition, in accordance with law.

If the panchayat authority is of the opinion that the Purlia Zilla Parishad would be the appropriate permission granting authority, in that case the entire issue and the representation of the petitioner shall be forwarded to the concerned zilla parishad and the concerned zilla parishad shall dispose of the representation and decide the matter by following the procedure as set out by the Court, herein below. The gram panchayat shall not decide the issues involved in such case.

In either case, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the

petitioner and the respondent Nos.8 to 17, with 48 hours advance notice to the petitioner and the respondent Nos.8 to 17.

- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent Nos.8 to 17.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without conversion of the land as also without permission and had been continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to all the parties. 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.
- 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.

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

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the appropriate competent authority.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan, Arsha Gram Panchayat, District-Purulia.

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.)