

21.03.2023
Court No. 19
Item 10 (ML)
CP

WPA No. 28837 of 2022

Lal Bihari Patra
Vs.
The State of West Bengal & Ors.

Mr. Anup Dasgupta

....for the petitioner.

Mr. Rabindra Narayan Dutta
Mr. Suprabhat Bhattacharya

...for the State.

Mr. Abhishek Banerjee
Ms. Parna Roy Choudhury
Mr. Avishek Choudhury
Ms. Payel Ghosh

....for the respondent nos. 13 to 15.

Despite service, none appears either on behalf of the respondent no. 16 or the panchayat authorities.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority for an enquiry and a decision as to whether the construction of a pucca structure with asbestos shed had been permitted by the gram panchayat or not, this writ petition is taken up in their absence.

The learned advocate appearing for the Punjab National Bank submits that the bank does not have any involvement in the dispute as the kiosk is being

run from the concerned alleged structure by the respondent no. 16 as a franchisee of the bank.

The only issue to be determined by the Nijkasba Gram Panchayat would be whether the concerned structure was constructed with permission from the authority or whether the nature and character of the structure did not require any permission from the authority.

Prima facie, there is already a finding of the gram panchayat that the construction was without any permission.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with a direction upon the Nijkasba Gram Panchayat to treat the writ petition as a representation and dispose of the same in accordance with law. While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 16. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 16 and on all other interested parties. If the parties are not available to accept notice, the same shall be

affixed at conspicuous places 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 was continuing, the authorities may take such interim measures by stopping such construction.
- c) A 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.
- e) A hearing shall be given to the petitioner and the respondent no. 16 and all other interested 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. 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.

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

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

Any dispute with regard to the title of the petitioner or any other person in respect of the land in question, shall not be gone into by the panchayat authorities.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)