

01.08.2024
Item No. 6
Crt.No.02
b.r.

WPA 427 of 2022

Mukhles Khan & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Salil Kumar Maiti

Mr. Pinaki Saha

..... for the petitioners.

Mr. Supratim Dhar

.... For the State.

Affidavit of service filed previously in Court, is already on record.

Mr. Salil Kumar Maiti, learned advocate, appears for the petitioners.

Mr. Supratim Dhar, learned State counsel appears for respondent nos. 1 to 6.

None appears for the private respondent no.7, despite notice.

The petitioners complain of an unauthorized construction and encroachment on the subject public land at the behest of the private respondent. The petitioners submitted representation dated **December 2, 2021, annexure p-4 at page-41** to the writ petition, *inter alia*, before the **respondent no.3**, but the same has not yet been considered.

Learned State counsel drew attention of this Court to a report dated **April 13, 2022** submitted by the

Officer-in-Charge, R.M. Section, Purba Medinipur.

The report is already on record. The report shows that in terms of the field enquiry made by the respondent no.4, the encroachment and unauthorized construction was found on the subject public land.

The report of the respondent no.4 is dated March 31, 2022. The report further suggests that the respondent no.3 was directed to take necessary action under the relevant provisions of the **West Bengal Public Premises (Eviction of Unauthorised Occupants) Act, 1962**, on the basis of the said report of the respondent no.4 dated **March 31, 2022**. The report further shows that a hearing was fixed on **April 29, 2022 at 12 noon**. The fact situation thereafter, is unknown to the parties.

In view of the above, in the event, the hearing had already taken place and reasoned order had been passed, then the respondent no.3 shall take all necessary and consequential steps to give effect to the said reasoned order in accordance with law but positively within a period of **four weeks** from the date of communication of this order.

In the event, the hearing has not yet taken place and concluded, the respondent no.3 shall issue a prior notice of hearing of at least **seven days** to the private respondents and petitioners and then after giving them an opportunity of hearing shall decide the issue by

passing a reasoned order in accordance with law. This exercise of granting hearing and passing the reasoned order shall be completed by the **respondent no.3** positively within a period of **six weeks** from the date of communication of this order. The reasoned order shall then be communicated to the petitioners and the private respondents within a further period of **two weeks** from the date of the said reasoned order to be passed.

Since the respondent no.4 has already caused a field enquiry and furnished its report confirming the unauthorized construction and encroachment on the public land at the behest of the private respondents, such issue shall not be re-opened any further which has already achieved its finality, as the said decision has not been challenged by anybody.

In the event the reasoned order to be passed, if had already not been passed yet, the respondent no.3 and/or appropriate authority shall give an immediate effect thereto but positively within a period of further **six weeks** from the date of the said reasoned to be passed.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 427 of 2022** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)