

29.07.2024
Item No. 121
Ct. no.2
b.r.

WPA 6748 of 2021

Abdul Hamid Gazi
Vs.
The State of West Bengal & Ors.

Mr. Amit Bikram Mahata
..... for the petitioner.

Affidavit of service filed in Court today, is taken on record.

None appears for the respondents, despite notice. The law presumes that respondents do not intend to oppose this writ petition.

The petitioner complains of an alleged illegal and unauthorized construction of a public road at the behest of the local Panchayat on a piece of land claimed to be under the ownership of the petitioner. The petitioner submits is representation dated **February 15, 2021, annexure p-2 at page-17** to the writ petition but the same has not been considered.

In view of the above, the petitioner shall serve a copy of the writ petition upon the **respondent no.2** forthwith.

The **respondent no.2** then shall delegate one of its responsible officer who upon notice to the petitioner shall

cause a physical inspection of the alleged construction of road and file a report before the respondent no.2.

The **respondent no.2** then upon giving a prior notice of hearing of at least seven days to the petitioner and the **respondent no.11** and any other interested party and authority he thinks fit and proper and after giving them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

It is needless to mention that the respondent no.2 shall personally hold the hearing and pass its reasoned order.

The entire exercise shall be carried out and completed by the respondent no.2 within a period of **10 (ten) weeks** from the date of communication of this order.

If the reasoned order confirms the unauthorized user on the petitioner's land then the respondent no.2 shall take all necessary and consequential steps in accordance with law expeditiously to resolve the issue once for all.

It is made clear that this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon but the same shall not travel beyond the scope of the representation dated **February 15, 2021** as referred to above.

It is made clear that this order shall not create any right or equity in favour of the petitioner if the petitioner is not eligible to receive his claim strictly in accordance with law.

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 6748 of 2021** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)