

07.03.2024

Ct. no.654

Sl. No.157

sn

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

WPA 6474 of 2023

**Sukumar Mondal & Ors.
Vs.
State of West Bengal & Ors.**

Mr. Ranjan Kali
Ms. Mitul Chakraborty
Ms. Payel Nath
..for the petitioners
Mr. Chandi Charan De
Mr. Anirban Sarkar
..for the State

Affidavit of service filed by the petitioners is taken on record.

By this writ petition under Article 226 of the Constitution of India, the petitioners have sought for quashing of the impugned order dated 18th August, 2022 passed by the Assistant Engineer, Kakdwip Highway Division, Public Works (Roads) Directorate, Government of West Bengal, being the respondent no.4.

This is second round of litigation. Previously, the petitioner no.1 filed a writ petition being no. WPA 7868 of 2021 on the allegation that the private respondents have raised construction by encroaching upon public highway, thereby, obstructing ingress and egress of the petitioner. The said writ petition was disposed of on 15th September, 2021 as follows:-

“Accordingly, I dispose of writ petition with liberty to the petitioner to file an application ventilating his grievance before the respondent no.4 within two

weeks from date. The respondent no.4 shall dispose of the said application after granting opportunity of hearing to all the affected parties including the petitioner within a period of three months from the date of receipt of application, in accordance with law.”

Mr. Ranjan Kali, learned advocate for the petitioners submits that as per the order passed in the previous writ petition, the respondent no.4 was obligated to cause hearing and to take proceeding to its logical conclusion, however, it failed to do the same. He seeks for appropriate orders.

Mr. Chandi Charan De, learned Additional Government Pleader, submits that the directions be passed upon the Assistant Engineer, Kakdwip Highway Division, Public Works (Roads) Directorate, Government of West Bengal, being the respondent no.4 to conclude the proceeding under Section 10 of the West Bengal Highways Act, 1964, in accordance with law.

Heard learned advocates for the respective parties.

Pursuant to the aforesaid direction passed in the writ petition being no. WPA 7868 of 2021, the Assistant Engineer, Kakdwip Highway Division, Public Works (Roads) Directorate, Government of West Bengal, being the respondent no.4, initiated a proceeding. It requested the Block Land & Land Reforms Officer, Sagar, being the respondent no.6, to take necessary action for joint demarcation programme with him and the proceeding was disposed of. By the aforesaid order passed in the writ petition, the respondent no.4 was directed to dispose of

the application of petitioner in accordance with law. It is pertinent to note from the impugned order dated 18th August, 2022 that the proceeding was not taken to its logical conclusion.

Accordingly, the impugned order passed by the Assistant Engineer, Kakdwip Highway Division, Public Works (Roads) Directorate, Government of West Bengal, being the respondent no.4. dated 18th August, 2022 is hereby set aside.

The Assistant Engineer, Kakdwip Highway Division, Public Works (Roads) Directorate, Government of West Bengal, being the respondent no.4, is directed to take the proceeding to its logical conclusion under West Bengal Highways Act, 1964 within a period of three months from the date of communication of this order after giving an opportunity of hearing to all concerned parties including the petitioners in accordance with law.

The result of such disposal be intimated to the petitioners within a week thereof.

The learned advocate-on-record for the petitioners is directed to serve a copy of this order upon the Assistant Engineer, Kakdwip Highway Division, Public Works (Roads) Directorate, Government of West Bengal, being the respondent no.4.

Since no affidavit has been invited, allegation contained in the writ petition shall be deemed not to have been admitted.

It is made clear that this Court has not gone into the merits of the case and all points are kept open.

With the above directions, this writ petition being **WPA 6474 of 2023** stands disposed of along with all connected applications, if any.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)