

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

A-44 11.11.2024
Sc Ct. no.2

WPA 7793 OF 2024

Mithu Mondal @ Pintu Mondal

Vs.

The State of West Bengal & Ors.

Mr. Ramkrishna Bhattacharya
Mr. Suman Chakraborty.

.....For the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyal.

... For the State

Mr. Sudip Das
Mr. Mobaidur Hossain

... For the Respondent
Nos. 10 & 11

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

Mr. Ramkrishna Bhattacharya, learned counsel
appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned senior
State counsel appears for the private respondents nos.
10 and 11.

The petitioner claims that, he has been running a
hotel at the subject land in respect whereof the
respondent No. 5 has issued a notice under **sub-Section
(1) to Section 10** of the **West Bengal Highways Act,
1964** dated **March 5, 2024, Annexure P-6 at page
34** to the writ petition and the petitioner has challenged
the same through this writ petition. The allegation of the

PWD is that, the petitioner has encroached the PWD land on a PWD road.

Learned counsel for the petitioner has denied and disputed the fact and submission. He submits that, there has been no encroachment of land by the petitioner.

In view of the above, the jurisdictional BL&LRO upon issuing a notice to the petitioner shall physically inspect the alleged unauthorized construction and encroachment as alleged in the said notice dated **March 5, 2024, Annexure P-6 at Page 34** to the writ petition and shall place a report before the jurisdictional Assistant Engineer (PWD).

This exercise shall be carried out by the jurisdictional BL&LRO positively within a period of **three weeks** from the date of the communication of this order.

Upon receiving the report from the BL&LRO, the jurisdictional Assistant Engineer (PWD) upon issuing a prior notice of hearing to the petitioner shall decide the issue by passing the reasoned order in accordance with law.

This exercise shall be carried out and completed by the jurisdictional Assistant-Engineer (PWD) positively within a period of **six weeks** from the date of receiving the report from the BL&LRO. The reasoned order shall

be communicated to the petitioner within **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the contention of the petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge in support of his claim by relying upon whatever records and documents he wishes to rely upon before the jurisdictional Assistant Engineer (PWD).

In the event the encroachment is confirmed, then the jurisdictional Assistant Engineer (PWD) and/or any other appropriate authority of the state shall take all necessary and consequential steps for removal of encroachment by giving an immediate effect to the said reasoned order in accordance with law but positively within a period of **eight weeks** from the date of the said reasoned order to be passed.

It is made clear that, this order shall not create any right or equity in favour of the petitioner if the petitioner fails to succeed to his contention before the jurisdictional Assistant Engineer (PWD) strictly in accordance with law.

Considering the issue involved in the writ petition and after considering the submission made on behalf of the parties including the submission made by Mr. Mobaidur Hossain, learned advocate appearing for the private respondents, this court is of the view that, in so far as the said notice dated **March 5, 2024** is

concerned, the private respondents have nothing to do with it and ***this writ petition stands dismissed as against private respondent nos. 10 & 11.***

However, if the petitioner is entitle to take any legal recourse against the private respondents on the basis of his allegation in this writ petition, it shall be open for the petitioner to take such recourse in accordance with law before the appropriate jurisdictional forum.

This court has not gone into the case of the petitioner made against the private respondents at all.

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

With the above observations and directions, this writ petition, ***WPA 7793 of 2024*** stands ***disposed of***, without any order as to costs.

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

(Aniruddha Roy, J.)