

Court No. 2
08.7.2024
(Item No. 43)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 9882 of 2024

Jhareswar Gharai
VS
The State of West Bengal & Ors.

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
.... For the petitioner
Mr. Indranil Roy
Mr. Dilip Kumar Ghosh
.... For the respondent
Nos. 1 to 6.

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

Mr. Sounak Bhattacharya, learned advocate appears for the petitioner.

Mr. Indranil Roy, learned State advocate appears for the respondent nos. 1 to 6. He files a police report ***dated April 19, 2024***, issued under the seal and signature of the ***Officer-in-Charge, Ramnagar Police Station, Purba Medinipur***, the same is taken on record.

The rest of the respondents including the Panchayat, its Pradhan and the private respondent Nos. 9 to 11 are not represented, despite notice. The law presumes that, they do not intend to defend this writ petition.

The petitioner complains of an alleged illegal and unauthorized construction on the subject piece of land at the behest of the private respondent Nos. 9 to

11. The petitioner submits that, a representation dated **March 10, 2024, Annexure-P-4 at page 22** to the writ petition was submitted before the Pradhan of the concerned Panchayat and the same has not been considered.

Referring to a document dated **January 4, 2024, Annexure P-3 at page 21** to the writ petition the petitioner submits that, the jurisdictional Block Development Officer has confirmed that, the private respondents are not the beneficiary of any **Awass Yojona Scheme**. As such, they cannot claim any benefit there under.

Considering the above, the Pradhan of the concerned Panchayat is directed upon issuing a prior notice to the petitioner and the private respondent Nos. 9 to 11 to cause a physical inspection of the alleged unauthorized and illegal construction and then after giving them an opportunity of hearing shall decide the said representation dated **March 10, 2024**, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the Pradhan of the concerned Panchayat positively within a period of **six weeks** from the date of communication of this order. The Pradhan then shall communicate the reasoned order to the petitioner and the private respondents

positively within a further period of **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 claim of the petitioner mentioned in the said representation dated **March 10, 2024**. The petitioner and the private respondents shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the Pradhan of the concerned Panchayat but the same shall not travel beyond the scope of the said representation dated **March 10, 2024**.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the Pradhan of the concerned Panchayat positively within a period of **seven days** from the date of the communication of the said reasoned order to the parties shall transmit the same and refer the matter before the jurisdictional **Sub Divisional Officer** in terms of **Sub Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**.

The jurisdictional **Sub Divisional Officer** then shall take all necessary and consequential steps to give an immediate effect to the said reasoned order expeditiously without any delay, in accordance with law.

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 in terms of the said representation dated **March 10, 2024** in accordance with law.

The petitioner shall serve a copy of this order upon the jurisdictional ***Block Development Officer*** who shall ensure that, the direction of this Court is carried out and complied with by the Pradhan of the concerned Panchayat.

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 9882 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.)