

20.06.2024
Ct. No. 2
Sl. No. 13
tbsr

WPA 15072 of 2024

Answer Ali Mallick
Vs.
The State of West Bengal & Ors.

Mr. Amitabha Ghosh
Ms. Nabanita Chatterjee
Ms. Arpita Dhar
....for the petitioner
Mr. Lalit Mohan Mahata
Mr. Prasanta Behari Mahata
....for the State

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

Mr. Amitabha Ghosh, learned advocate appears
for the petitioner.

Mr. Lalit Mohan Mahata, learned Additional
Government Pleader appears for respondent nos. 1 to
6.

None appears for the rest of the respondents
including the Panchayat, its Pradhan and the private
respondents, despite notice. The law presumes that
these non-appearing respondents do not intend to
oppose this writ petition.

The petitioner alleges unauthorized and illegal
construction on the subject piece of land at the behest
of the private respondent nos. 10 and 11. The
petitioner submits that several representations were
submitted before the diverse State authorities but no

step has been taken. Last of such representation is dated **April 1, 2024 at page 44** to the writ petition submitted before the respondent no. 3. The same has also not received any attention.

The learned Additional Government Pleader submits that, the subject land is measuring about more than one acre on which the illegal construction alleged to have been caused. He submits that, the decision shall be taken by the jurisdictional authority, namely, Sabhadhipati of the Zilla Parishad, Hooghly and not the Pradhan of the concerned Gram Panchayat.

In view of the above, to sub-serve justice, the petitioner shall be at liberty to submit a fresh representation before the Sabhadhipati, Hooghly and also before the Sabhapati, Chanditala-II Panchayat Samiti within a period of seven days from date.

In the event, such representation is submitted then the concerned Sabhapati shall cause necessary physical inspection of the alleged illegal and unauthorized construction upon notice to the petitioner and the private respondent nos. 10 and 11 positively within a period of ten days from the date of receiving the said representation and then shall file his report before the Sabhadhipati within a period of three days from the date of such inspection.

Thereafter on the basis of the said finding of the Sabhapati as directed above, the Sabhadhipati upon issuing a prior notice of hearing to the petitioner and the private respondent nos. 10 and 11, after granting them an opportunity of hearing shall dispose of the said representation to be submitted by the petitioner by passing a reasoned order in accordance with law positively within a period of **four weeks** from the date of receiving the finding/report of the Sabhapati. The Sabhapati then shall communicate its reasoned order to the petitioner and the private respondents positively within a period of **one week** from the date of the said reasoned order to be passed.

In the event, the reasoned order shows that there has been an illegal and unauthorized construction on the subject piece of land, the Sabhadhipati shall positively within a period of **one week** from the date of communication of the said reasoned order shall send the same before the respondent no. 6 in terms of **Sub-Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**.

The respondent no. 6 then shall take all necessary and consequential steps expeditiously without any delay to give effect to the said reasoned order strictly in accordance with law.

It is made clear that this Court has not gone into the merits of the claim of the petitioner. 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 Sabhadhipati but the same shall not travel beyond the issue of alleged unauthorized and illegal construction on the piece of land.

Learned counsel for the petitioner submits that the alleged illegal construction has been made on a recorded water body after filling of the same.

It is further 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.

On the above terms, this writ petition, **WPA 15072 of 2024** stands **disposed of**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)