

13.06.2024
Item No.ml.69
Crt.No.22
b.r.

WPA 14077 of 2023

Jagabandhu Jotdar
-vs-
The State of West Bengal & Ors.

Mr. Indrajit Roy Chowdhury
Mr. Jaydipta Mandal
..... for the petitioner.

Mr. Rajarshi Basu
Mr. Subhendu Sengupta
.... For the State.

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

Mr. Indrajit Roy Chowdhury, learned advocate appears for the petitioner.

Mr. Rajarshi Basu, learned State counsel appears for respondent nos. 1,4,5 and 6.

The concerned Panchayat and its Pradhan are not represented, despite notice.

The private respondents no.7 is not represented, despite notice.

The petitioner complains of an unauthorized construction on a subject water body at the behest of the private respondent no.7. Referring to a representation dated **April 13, 2023, annexure p-3 at page-20** to the writ petition, the learned advocate for the

petitioner submits that the same has not yet received the attention of the authorities.

Considering the above and on perusal of the materials on record, to sub-serve justice, **the respondent no.2** is directed upon issuing a prior hearing notice of at least seven days to the petitioner and the private respondent no.7 and upon giving them an opportunity of hearing shall decide the representation dated **April 13, 2023** as referred to above by passing a reasoned order.

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

The reasoned order shall be communicated by the respondent no.2 to the petitioner and the private respondent 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 writ petitioner in any manner and the petitioner and the private respondent 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 respondent no.2.

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

In the event, the reasoned order goes in favour of the petitioner holding the alleged construction as unauthorized and illegal, the respondent no.2 within **a week** from date from passing the said reasoned order shall 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 in turn shall deal with the issue strictly in accordance with law but positively within a period of **eight weeks** from the date of receiving the reference from the respondent no.2 and shall take all necessary and consequential steps 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 14077 of 2023** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)