

25.06.2024
Item No. 8
Crt.No.02
b.r.

WPA 15314 of 2024

Saraswati Mondal
-vs-
The State of West Bengal & Ors.

Mr. Sourav Mondal
Mr. Mukul Biswas
..... for the petitioner.

Ms. Sabnam De Bardhan
.... For the State.

Mr. Sananda Bhattacharyya
..... for the Resp. no.10.

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

Mr. Sourav Mondal, Learned counsel, appears for the petitioner.

Ms. Sabnam De Bardhan, learned State advocate appears for the respondent nos. 1 to 5 and 8.

Mr. Sananda Bhattacharyya, learned advocate appears for the private respondent no.10.

The Panchayat and its Prodhan and the private respondent no.9 are not represented, despite notice.

The law presumes they do not intend to defend this writ petition.

The petitioner alleges unauthorized and illegal construction on the subject piece of land at the behest of the private respondents. The petitioner contends that

the subject piece of land belongs to Panchayat and not a private land. The petitioner submitted a representation dated **April 22, 2024, annexure p-1 at page-14** to the writ petition which has not been considered.

Learned counsel appearing for private respondent no.10 submits the piece of land belongs to the private respondents and the private respondents are the owners thereof as would be evident from the land records. Therefore, there is no unauthorized construction.

The learned State counsel submits a police report dated **June 25, 2024** issued under the seal and signature of the **Inspector-in-Charge, Chakdah Police Station**. The police report shows that in view of the complaint lodged, the police has already initiated **Chakdah Police Station Case No.667/21 dated November 20, 2021**. The report is taken on record.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, the Prodhan of the concerned Panchayat is directed upon issuing a prior notice to the petitioner and the private respondent nos. 9 and 10 to cause a physical inspection of the alleged construction and then after giving them an opportunity of hearing shall decide the said representation dated **April 22, 2024**, as referred to above, by passing a reasoned order.

The entire exercise shall be carried out and completed by the Prodhan positively within a period of **six weeks** from the date of communication of this order. The Prodhan then shall communicate the reasoned order to the petitioner and the private respondents positively within a 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 with regard to the alleged unauthorized and illegal construction. 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 Prodhan of the concerned Panchayat but the same shall not travel beyond the unauthorized construction.

In the event, the reasoned order confirms that the said alleged construction is illegal and unauthorized then the Prodhan within **seven days** from the date of communication of the said reasoned order to the parties shall communicate 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 said Sub-Divisional Officer then shall take all necessary and consequential steps to give an immediate

effect to the 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 representation 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.

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 Prodhan of the concerned Panchayat.

With the above observations and directions, this writ petition, **WPA 15314 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)