

25.06.2024
Item No. 9
Crt.No.02
b.r.

WPA 15354 of 2024

Sikha Choudhury
-vs-
The State of West Bengal & Ors.

Mr. Ritendra Banerjee
Mr. Aritra Roychowdhury
..... for the petitioner.

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

None appears, despite service.

Learned advocate for the petitioner submits that though the notice has been sent to private respondent no.10 but the postal track report is not available till now.

Except private respondent no.10, the law presumes that all other respondents do not intend to defend this writ petition.

Mr. Ritendra Banerjee, learned advocate appears for the petitioner complains of an alleged unauthorized and illegal construction on Panchayat road at the best of the private respondents. The petitioner states that in a previous round of writ litigation a direction was passed by a co-ordinate Bench on **March 4, 2021 in WPA 3108 of 2021** directing the Prodhan to dispose of the grievance of the petitioner. The petitioner submits the

Prodhan failed and neglected to carry out the said direction.

Subsequently, further unauthorized construction are being carried out at the Nayanjuli of the concerned public road by filling up a water body. Though this was brought to the notice of the Prodhan through the said representation dated **May 21, 2024, annexure p-2 at page-46** to the writ petition but the same has not yet been considered.

Considering the submissions made on behalf of the petitioner and upon perusal of the materials on record, the Prodhan of the concerned Panchayat upon issuing a prior notice to the petitioner and the private respondents is directed 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 **May 21, 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 Prodhan positively within a period of **six weeks** from the date of communication of this order. The Prodhan shall then communicate the reasoned order to the petitioner and private respondents positively within a period of **two weeks** from the date of passing the said reasoned order.

It is made clear that this Court has not gone into the merits of the claim of the petitioner as would appear from the said representation and the petitioner and all 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 but the same shall not travel beyond the alleged unauthorized construction.

In the event, the reasoned order confirms the unauthorized and illegal construction, the Prodhan shall communicate the same and refer the matter before the jurisdictional Sub-Divisional Magistrate in terms of **Sub-Section 4 to Section 25** of the **West Bengal Panchayat Act, 1973** and the Sub-Divisional Magistrate shall take all necessary and consequential steps to give effect to the said reasoned order expeditiously and without any further 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 with regard to the alleged unauthorized and illegal construction 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 15354 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)