

20.09.2024

Item No. 22

Crt.No.02

b.r.

WPA 15891 of 2024

Jakir Hossain Laskar & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Joy Chakraborty

Ms. Ipsita Ghosh

..... for the petitioners.

Mr. Syed Bhaktiyar Adil Rahman

Ms. Sinthia Bala

Ms. Priyanka Jana

.... For the State.

Ms. Pampa Dey (Dhabal)

Mr. Biswarup Chatterjee

Mr. Sangita Banerjee

... for the Resp. nos. 9 to 15.

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

On the prayer of the learned counsel for the petitioners, leave is granted to the petitioners to file the supplementary affidavit affirmed on August 2, 2024, the same is taken on record.

From the supplementary affidavit it appears that by a communication dated **July 16, 2024 at page-4** to the supplementary affidavit, the respondent no.6 made an allegation against the petitioners for encroachment on the PWD land and asked for removal of the same.

Ms. Ipsita Ghosh, learned advocate, appears for the petitioners.

Ms. Sinthia Bala, learned State advocate appears for the respondent nos. 1 to 7.

Mr. Biswarup Chatterjee, learned advocate appears for the private respondent nos. 9 to 15.

The petitioners complain of unauthorized and illegal construction and encroachment of PWD land at the behest of the private respondents. The petitioners submitted a representation dated **May 13, 2024, annexurep-3 at page 52** to the writ petition before the State authorities, no attention was paid thereto.

Learned counsel appearing for the private respondents submits that the petitioner is no more living at the locality and left the locality. The petitioners cannot agitate this grievance. The private respondents have also denied the submissions made on behalf of the petitioners.

The learned counsel for the petitioners submit that subsequently petitioners were informed that this communication was issued mistakenly and the same should have been issued upon the private respondents. Referring to the next page that is **page-5** from the supplementary affidavit, the learned counsel for the petitioners submit that the respondent no.6 then issued another communication dated July 18, 2024 upon the private respondents with an allegation of encroachment of PWD land and asked removal thereof.

Considering the rival contentions of the parties and upon perusal of the materials on record, to subserve justice, since the provisions under **Section 10(1) of the West Bengal Highways Act, 1964** has already been invoked, the respondent no.3 upon giving a prior notice to the petitioners and the private respondents of at least **seven days** shall grant an opportunity of hearing to them and then pass a reasoned order on the representation of the petitioner dated **May 13, 2024**, as referred to above in accordance with law.

The entire exercise as directed herein shall be carried out and completed by the **respondent no.3** positively within a period of **six weeks** from the date of communication of this order and the reasoned order shall be communicated to the petitioners and the private respondents positively within a period of further **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 rival contentions of the petitioners or the private respondents and they shall be entitled to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3.

In the event, the reasoned order further confirms the said encroachment, the **respondent no.3** and/or

any other appropriate State authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law but positively within a period of **two weeks** from the date of the said reasoned order to be passed.

In the event any assistance sought for from the respondent no.8, such assistance shall immediately be provided to the appropriate authorities.

It is made clear that this order shall not create any right or equity in favour of the petitioners or in favour of the private respondents, if they do not succeed to their respective contentions strictly in accordance with law before the respondent no.3.

In the event, the reasoned order ultimately confirms the encroachment at the behest of the private respondents then the said communication issued by the respondent no.6 dated **July 16, 2024 at page-4** to the supplementary affidavit **shall automatically lose its force and effect and the same shall have no further effect.**

Since the 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 15891 of 2024** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)