

18 24.6.2024
Sc Ct. no.2

WPA 15966 OF 2024

Hossain Ali Khan alias
Javed Ali Khan

Vs.

The State of West Bengal & Ors.

Mr. S. S. Arefin

....For the Petitioner

Mr. Sudipto Panda
Mr. Pranab Sarkar.

..For the Respondent
Nos. 1 to 3, 5 & 6

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

Mr. S. S. Arefin, learned State counsel appears for the respondent.

Mr. Sudipto Panda, learned counsel appears for the respondent nos. 1 to 3, 5 and 6.

None appears for the Panchayat, its Pradhan and the private respondents, despite notice. The law presumes that, they do not intend to defend this writ petition.

The petitioner complains of an alleged unauthorized and illegal construction on a subject piece of land at the behest of the private respondent nos. 7 and 8. The petitioner submitted a representation dated **April 30, 2024, Annexure-P1 at page 14** to the writ petition before the Pradhan of the concerned Panchayat, the same has not yet been considered.

In view of the above, the Pradhan of the concerned Panchayat the respondent no.4 is directed upon issuing a prior hearing notice to the petitioner and the private respondents to cause a physical inspection of the subject alleged unauthorized construction and then after giving them an opportunity of hearing shall dispose of the representation dated **April 30, 2024**, as referred to above, in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the Pradhan of the concerned Panchayat positively within a period of **six weeks** from the date of communication of this order. The Pradhan then shall communicate its reasoned order to the petitioner and the private respondents 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 petitioner and 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 Pradhan of the concerned Panchayat but not beyond the issue of an alleged unauthorized and illegal construction.

In the event the reasoned order goes in favour of the petitioner confirming the unauthorized and illegal construction, the Pradhan positively within a period of

seven days from the date of communication of the reasoned order to the parties shall transmit 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 jurisdictional Sub Divisional Officer then shall take all necessary and consequential steps to give an immediate effect to the said reasoned order expeditiously.

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 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** to ensure that, the direction of this Court is complied with and carried out by the Pradhan of the concerned Panchayat.

With the above observations and directions this writ petition, **WPA 15966 of 2024** stands disposed of without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)