

12.07.2024
Item No. 44
Crt.No.02
b.r.

WPA 16118 of 2024

Pranab Patra
-vs-
The State of West Bengal & Ors.

Mr. Salil Kumar Maiti
Mr. Pinaki Saha
..... for the petitioner.

Mr. Avirup Mondal
Ms. Ujani Pal Samanta
... for the State.

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

Mr. Salil Kumar Maiti, learned advocate appears for the petitioner.

Mr. Avirup Mondal, learned State advocate appears for the respondent nos. 1, 3 to 8.

The Panchayat, its Prodhan and the private respondent nos. 9 and 10, are not represented, despite service of notice. The law presumes they did not intend to defend this writ petition.

The petitioner complains of an unauthorized and illegal construction on the piece of agricultural land at the best of the private respondents. The petitioner has submitted a representation **dated May 3, 2024** before the Prodhan, **annexure p-5 at page 61** to the writ petition, the same has not been considered.

Learned State counsel files a report dated **July 1, 2024** issued under the signature of the jurisdictional Block Development Officer, the same is taken on record. The report shows the construction alleged by the petitioner was made without obtaining any permission from the Panchayat.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, the Prodhan of the concerned Gram Panchayat is directed upon issuing a prior notice to the petitioner and the private respondent nos. 9 and 10 shall cause a physical inspection of the alleged unauthorized and illegal construction and then after granting them an opportunity of hearing shall decide the representation of the petitioner as referred to above by passing a reasoned order in accordance with law.

It is made clear that 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 the order. The Prodhan then shall communicate the reasoned order to the petitioner and the private respondents positively within 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 with regard to

the alleged unauthorized construction and the rival contentions of the parties as recorded above and the parties 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 but the same shall not travel beyond the scope of the said representation of the petitioner at **page-61** to the writ petition.

In the event, the reasoned order confirms the unauthorized and illegal construction, then the Prodhan positively within a period of **seven days** from the date of communication of the said reasoned order to the parties shall transmit the same and refer matter before the jurisdictional Sub-Divisional Officer in terms of **Sub-Section 5 to Section 23 of the West Bengal Panchayat Act, 1973.**

The Sub-Divisional Officer shall then take all necessary and consequential steps to give an immediate effect to the said reasoned order expeditiously and without delay and in accordance with law.

It is made clear that this order shall not create any right or equity in favour of the parties, if they do not succeed to their respective contentions 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 16118 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)