

7 02.7.2024
Sc Ct. no.2

WPA 16491 OF 2024

Dinabandhu Das & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh

... For the Petitioners

Mr. Pinaki Bhattacharya

Ms. Sanchayita De.

.... For the Respondent
Nos. 1 to 5

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

Mr. Mrinal Kanti Ghosh, learned counsel appears for the petitioners.

Mr. Pinaki Bhattacharya, learned State advocate appears for the respondent nos. 1 to 5.

The concerned Panchayat and its Pradhan are not represented. The law presumes that, they do not intend to defend this writ petition

The petitioners complain of an alleged illegal and unauthorized construction of the overhead water tank on the raiyati land of the petitioners at the behest of the Panchayat. The petitioners submitted a representation dated **May 6, 2024, Annexure-P8 at page 56** to the writ

petition before the Pradhan of the concerned Panchayat, the same has not been considered.

In view of the above the Pradhan of the concerned Panchayat is directed upon issuing a prior notice on the petitioners and the Panchayat shall 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 6, 2024** 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 petitioners and the Panchayat positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

In course of hearing, if necessary, the Pradhan of the concerned Panchayat and the jurisdictional **Sub-Divisional Officer** as the case may be, shall take assistance of the respondent no.4 and the respondent no.4, if necessary, shall produce all the relevant land records during the hearing.

It is made clear that, this Court has not gone into the merits of the claim of the petitioners mentioned in the said representation. 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 Pradhan of the concerned Panchayat but the same shall not travel beyond the scope of the alleged unauthorized and illegal construction.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the jurisdictional **Block Development Officer** shall sit in a meeting with the petitioners and the Pradhan to settle the issue and arrive at a solution first. If no solution is arrived at, then the Pradhan shall refer the matter before the jurisdictional **Sub-Divisional Officer** in terms of **Sub-Section (5) to Section 23** of the **Panchayat Act, 1973** positively within a period of **six weeks** from the date of the communication of the reasoned order to the petitioners.

The jurisdictional **Sub-Divisional Officer** then shall take all necessary and consequential steps to give an immediate effect to the said 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 petitioners, if the petitioners are not eligible to receive their claim in terms of the representation with regard to the alleged unauthorized and illegal construction.

The petitioners 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 Pradhan of the concerned Panchayat.

Since 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 16491 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.)