

99 21.6.2024
Sc Ct. no.2

WPA 15225 OF 2023

Sekh Lutfar Ali

Vs.

The State of West Bengal & Ors.

Mr. Malay Roy

.... For the Petitioner

Md. Mansur Alam

.... For the Respondent
Nos.1, 3 & 4

The petitioner alleges unauthorized and illegal construction on the subject piece of land at the behest of the private respondent no.5. The petitioner submits that, there is no sanctioned plan for such construction. Referring to a representation dated **June 5, 2023, Annexure-P4 at page 20** to the writ petition Mr. Malay Roy, learned advocate appearing for the petitioner submits that, though the representation was made before the concerned Pradhan, the same has not yet been considered.

Md. Mansur Alam, learned State advocate appears for the respondent nos. 1, 3 and 4.

After considering the submissions made on behalf of the parties and upon perusal of the records, the respondent no.2, the concerned Pradhan is directed upon issuing a prior hearing notice of at least **seven days** to the petitioner and the respondent no. 5, to make a physical inspection of the alleged unauthorized and illegal

construction and then after giving them an opportunity of hearing shall decide the representation of the petitioner dated **June 5, 2023**, 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 concerned Pradhan positively within a period of **six weeks** from the date of communication of this order. The Pradhan shall then communicate its reasoned order to the petitioner and the respondent no.5 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 claims and rival claims of the parties as recorded above. 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 respondent no.2.

In the event the reasoned order goes in favour of the petitioner showing the alleged construction as illegal and wrongful, the Pradhan shall within **seven days** of communication of the said reasoned order shall forward the same and refer the matter to 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 then shall take all necessary and

consequential steps to give effect to the said reasoned order expeditiously 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 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.

On the above terms this writ petition, **WPA 15225 of 2023** stands disposed of, without any order as to costs.

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

(Aniruddha Roy, J.)