

27.06.2024
Item No. 22
Crt.No.02
b.r.

WPA 16260 of 2024

Injamul Haque Sardar & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Bidyut Kumar Halder
Mr. Indranil Halder
.... For the petitioners.

Mr. Soumya Nag
... for the private respondent no. 5

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

Mr. Bidyut Kumar Halder, learned advocate appears for the petitioners.

Mr. Soumya Nag, learned advocate appears for the respondent no. 5.

The rest of the respondents are not represented, despite notice. The law presumes they do not intend to defend this writ petition.

The petitioners complains of an alleged unauthorized and illegal construction on the subject piece of land at the best of the private respondent no.5. The petitioners have submitted a representation dated **May 20, 2024 annexure p-1 at page-9** to the writ petition before the Prodhan of the concerned Panchayat but the same has not yet been considered.

Learned counsel for the private **respondent no.5** denies and disputes the submissions made on behalf of the petitioners and submits that the private respondents has no nexus or connection with the unauthorized construction.

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 petitioners and the private **respondent no.5** 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 petitioners 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 petitioners 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 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 petitioners dated **May 20, 2024** 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 jurisdictional 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 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 Prodhan of the concerned Panchayat.

With the above observations and directions, this writ petition, **WPA 16260 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)