

**WPA 15310 OF 2023**

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Sri Suvendu Bikash Bhunia

Vs.

The State of West Bengal & Ors.

Mr. Dinendra Nath Chatterjee  
Mr. Subhas Ch. Saha.

... For the Petitioner

Mr. Srinath Singha Roy  
Ms. Oindrila Chatterjee.

... For the Respondent  
Nos.1, 2 & 6 to 8

Mr. Uttam Kumar Bhattacharya

... For the Respondent  
Nos. 3 to 5

Mr. Soumen Kr. Dutta  
Mr. Sk. Sayan Uddin.

... For the Private  
Respondent Nos.10 & 11

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

Mr. Dinendra Nath Chatterjee, learned counsel  
appears for the petitioner.

Mr. Srinath Singha Roy, learned counsel appears  
for the respondent nos.1, 2 and 6 to 8.

Mr. Uttam Kumar Bhattacharya, learned counsel  
appears for the respondent nos. 3 to 5.

Mr. Soumen Kr. Dutta, learned counsel appears for  
the private respondent nos.10 and 11.

None appears for the Panchayat and its Pradhan  
despite service. Law presumes that, they do not intend to  
oppose this writ petition.

The petitioner requested the concerned Zilla Parishad for granting lease in respect of a piece of land immediately adjacent to his land. The petitioner further complains of the alleged illegal and unauthorized construction on the said land of which the petitioner has asked for obtaining lease. The land in respect whereof the petitioner has asked for obtaining lease is the portion through which only egress and ingress to the petitioner's property is possible. The alleged unauthorized construction, complained of by the petitioner, is at the behest of the private respondent nos. 10 and 11. Drawing attention to justice demand issued on behalf of the petitioner dated **February 6, 2023, Annexure-P6 at page 44** to the writ petition, learned counsel for the petitioner submits that, the said representation was addressed to diverse State authorities including the respondent no.3 but has not received the attention of the authorities.

Mr. Soumen Kr. Dutta, learned counsel appearing for the private respondent nos. 10 and 11 submits that, the subject piece of land whereupon the petitioner has alleged the unauthorized and illegal construction and of which the petitioner has asked for a lease has been granted to the private respondents on lease by the Zilla Parishad by its Lease document dated **June 13, 2022**. The private respondents have not caused any permanent structure to be constructed on the said leasehold land

and whatever temporary structure, the same was erected for running of the business of the private respondents and the same is in conformity with the lease terms.

Mr. Uttam Kumar Bhattacharya, learned counsel appearing for the Zilla Parishad submits that, the lease has been granted duly to the private respondents for a limited period of two years and the private respondents are in permissive occupation for the said period.

After considering the rival contentions of the parties and upon perusal of the materials on record this Court directs the respondent no.3 upon issuing a prior hearing notice of at least **seven days** to the petitioner and the private respondent nos. 10 and 11, to cause a physical inspection of the alleged construction and then after giving them an opportunity of hearing shall decide the representation of the petitioner dated **February 6, 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 respondent no.3 positively within a period of **six weeks** from the date of communication of this order. The respondent no.3 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.

While conducting the hearing the respondent no.3, if feels necessary, may call upon any other State authority to assist him by producing relevant records and documents.

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.3 but the same shall not travel beyond the scope of the said representation dated **February 6, 2023**.

In the event, the reasoned order goes in favour of the petitioner then, for the purpose of granting lease of the land to the petitioner, the respondent no.3 shall take necessary and consequential steps in accordance with law positively within a period of **three weeks** from the date of communication of the said reasoned order.

In the event, the reasoned order shows that, there is an illegal and unauthorized construction, the respondent no.3 shall then refer the matter before the appropriate statutory authority in terms of **Sub-Section (6) to Section 160A** of the **Panchayat Act** and such appropriate authority then shall take all necessary and consequential steps to give effect to the said reasoned order expeditiously strictly 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.

With the above observations and directions this writ petition, **WPA 15310 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.)**