

18.07.2024
Court No.09
Item no.03
CP

WPA No. 16597 of 2024

Narayan Chandra Bhunia & ors.
Vs.
Union of India & ors.

Mr. Shahan Shah
....for the petitioners.

Mr. Ashim Kr. Ganguly
Mr. Bellal Shaikh

....for the State.
Ms. Susmita Saha Dutta

....for the Union of India.

Mr. Amitabha Karmakar
Mr. Dhananjay Banerjee
Mr. Arup Kumar Bhowmick

....for the respondent nos. 11 & 12.

The petitioners allege that the respondent nos. 11 & 12 have constructed a road/pathway right in front of the petitioners' land being part of Plot No.2319 of Mouza – Shitalpur.

Learned advocate for the respondent nos. 11 & 12 has produced documents to show that provisional 'no objection' had been granted by the appropriate authority for construction of an access road to their petrol pump which a retail unit of IOCL. Licence fee of Rs.2,31,525/- had been paid. Relevant documents have been produced before this court.

The Assistant Engineer, Tamluk National Highway Sub-Division, PW(Roads) has filed a report before this court, which is taken on record.

It appears from the report that LR Plot Nos. 2316, 2317 and 2315, pertaining to Khatian No.02, J.L No. 071 in Mouza – Shitalpur, are recorded in the name of the Public Works Department, Government of West Bengal and are situated alongside National Highway – 116B (Nandakumar to Digha). Out of the said plots, Plot Nos. 2315 and 2317 have been classified as Nayanjali and Plot No. 2316 has been classified as pucca rasta. At present, Plot No. 2317 is adjacent to the part of petitioners' plot, namely, Plot No.2319.

The report indicates that a proposal for permission to construct an approach road on 116B National Highway, for access to a retail outlet of M/s. Indian Oil Corporation Limited through the said government plots, namely, Plot Nos. 2316, 2317 and 2315, was sent by the Chief Engineer, National Highway Wing, Public Works (Roads) Department, Government of West Bengal to the Regional Officer (Civil), Ministry of Road Transport & Highways, Government of India, CGO Complex, Saltlake. The proposal was approved sometime in September 2015 and a provisional 'no objection' certificate was

issued for construction of such approach road to the proposed fuel station of an outlet of M/s. Indian Oil Corporation Limited.

The approval for construction of the approach road was communicated to the Chief Engineer, National Highway Wing, Public Works (Roads), Department, Government of West Bengal by the Executive Engineer (Civil) on behalf of the Regional Officer (Civil), Ministry of Road Transport and Highways, Government of India. The approval was also communicated to the Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited and it was requested that a sum of Rs.2, 31,525/- should be deposited as licence fee in the form of demand draft for execution of licence deed. The bank draft was accordingly deposited.

It has been categorically stated that there is no encroachment either over or in front of the plot of the petitioners and the approach road had been constructed on government land as per the approved plan, upon obtaining permission from the Ministry of Road Transport & Highways, Government of India. The guidelines issued under the provisions laid down in the Control of National Highways (Land and Traffic) Act, 2002, were followed.

The allegation of the petitioners is found to be incorrect and it has been specifically stated in the report that there is no obstruction to the ingress and egress of the petitioners. Under such circumstances, the writ petition is disposed of.

The Assistant Engineer, Tamluk National Highway Sub-Division, PW(Roads) shall issue a communication to the petitioners containing the information which have been placed before this court, within a month from date.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)