

WPA 16966 OF 2024

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Soumen Majumder & Anr.  
Vs.  
The State of West Bengal & Ors.

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|--------------------------------------------------|--------------------------------------|
| Mr. Fazlul Haque<br>Mr. Pulak Basu.              | ... For the Petitioners              |
| Ms. Piyali Sengupta<br>Ms. Susmita Mukherjee.    | ....For the Respondent<br>Nos. 1 & 5 |
| Mr. Biswaranjan Bhakat<br>Mr. Om Prakash Tewari. | ...For the Respondent<br>No. 7       |

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

Mr. Fazlul Haque, learned counsel appears for the petitioners.

Ms. Piyali Sengupta, learned counsel appears for the respondent nos.1 and 5. She submits a police report dated **July 9, 2024**, issued under the seal and signature of the **Officer-in-Charge, Liluah Police Station**, the same is taken on record.

Mr. Biswaranjan Bhakat, learned advocate appears for the respondent no. 7.

Learned counsel for the petitioners submits that, despite service of notice, the Pradhan and the private respondent no.6 are not represented. The law presumes that, they do not intend to oppose this writ petition.

The petitioners complain of an alleged unauthorized and illegal construction on the subject piece of land at the behest of the private respondents. The petitioners submitted a representation dated **May 29, 2024, Annexure-P1 at page 15** to the writ petition before the Pradhan of the concerned Panchayat and the same has not been considered.

Learned counsel appearing for the private respondent no.7 submits that, the alleged construction has been carried out in strict compliance of the sanctioned plan, sanctioned by the concerned Panchayat. He submits there is no violation of any sanctioned plan and the alleged construction is totally legal and authorized.

Considering the rival contentions of the parties and considering the materials on record, the Pradhan of the concerned Panchayat, upon issuing a prior notice to the petitioners and the private respondents, is directed to 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 of the petitioners dated **May 29, 2024**, 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 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 the reasoned order to the petitioners and the private respondents 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 rival claims of the parties. The petitioners and the private respondents 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 said representation dated **May 29, 2024**.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the Pradhan of the concerned Panchayat positively within a period of **seven days** from the date of the communication of the said reasoned order to the parties shall transmit the same and refer the 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** 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 said representation dated **January 25, 2024** in accordance with law.

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 16966 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.)**