

130 24.6.2024
Sc Ct. no.2

WPA 16149 OF 2023

Sk. Ali Amed

Vs.

The State of West Bengal & Ors.

Mr. Sk. Toslim Ali

... For the Petitioner

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

None appears for the respondents including the Panchayat, its Pradhan and the private respondent nos. 6 to 9, despite notice. The service shows that, notice was served upon the Pradhan and the private respondent nos. 6 and 7. The law presumes that, they do not intend to defend this writ petition

The petitioner complains of an alleged illegal and unauthorized construction on the subject piece of land at the behest of the private respondent nos. 6 to 9. The petitioner submitted a representation dated **June 15, 2023, Annexure-P3 at page 23** to the writ petition before the Pradhan of the concerned Panchayat, still the same has not been considered.

In view of the above the Pradhan of the concerned Panchayat is directed upon issuing a prior notice on the petitioner and the private respondent nos. 6 to 9 shall 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 dated **June 15, 2023** in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the Pradhan positively within a period of **six weeks** from the date of communication of this order. The Pradhan 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.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner insofar as the alleged unauthorized and illegal construction is concerned. The petitioner 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 but the same shall not travel beyond the complaint of the said unauthorized and illegal construction.

In the event, the reasoned order goes in favour of the petitioner that, the alleged construction is illegal and unauthorized, then the Pradhan positively within a period of **seven days** from the date of communication of the reasoned order 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**. T

The jurisdictional **Sub Divisional Officer** then shall take all necessary and consequential steps to give immediate 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.

With the above observations and directions this writ petition, **WPA 16149 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.)