

1&189 01-08-2024
AKG
Ct. 15

WPA 26569 of 2023
Lions Club of Jamalpur Welfare Trust & Ors.
Vs.
The State of West Bengal & Ors.

With
WPA 18243 of 2024
Samir Kumar Samanta
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Saha Roy,
Mr. Neil Basu,
Mr. Sankha Biswas

...for the Petitioner

Mr. Alak Kr. Ghosh,
Mr. Sayan Chattopadhyay

...for the Private Respondent

Mr. Sadhan Halder,
Mr. Bishnupada Jana

...for the State in WPA 26569/2023

Both these writ petitions are arising out of an order dated August 31, 2023, passed by the Sub-Divisional Magistrate, Purba Bardhamana, whereby the said officer directed the Lions Club of Jamalpur Welfare Trust and Lions Seva Eye Hospital to demolish an alleged unauthorised construction any by December 31, 2023. The writ petitioner in WPA 18243/2024 seeks implementation of the order while the writ petitioners in W.P.A. 26569 of 2023 challenge the order.

A perusal of the order dated August 31, 2023, makes it clear that the Jamalpur –II Gram Panchayat granted a permission for construction a two storied building at the relevant premises but the petitioners in WPA 26563/2023

have raised a four storied building.

The petitioner in WPA 18243/2024 submits that the Panchayat had no authority to grant sanction for a four storied building. Therefore, the Sub-Divisional Magistrate had rightly directed for demolition of the construction over and above the second floor.

It appears that the petitioners in W.P.A.26569 of 2023 had made an application for construction of a four storied building before the Jamalpur-II Gram Panchayat by an application dated June 21, 2011.

In view of Rule 74(2) the West Bengal Panchayat (Panchayat Samiti Administration Rules), 2008, the Panchayat lacked the authority to grant the sanction for the proposed building and it ought to have forwarded the application to the relevant Zilla Parishad for their consideration.

In the present case, however, it appears that the Panchayat, beyond its competence, granted sanction for the four storied building as prayed by the petitioners in WPA 26569/2023.

It is not in dispute that the said four storied building is in existence since 2011 and the petitioners in WPA 26569/2023 are providing voluntary health services from the said premises.

In view of the aforesaid facts, I am not inclined to pass a direction for implementation of the order of the

Sub-Divisional Magistrate dated August 31, 2023. I dispose of these writ petitions with a direction upon the Jamalpur-II Gram Panchayat to forward all necessary documents including the application for sanctioned plan filed by the petitioner before the Purba Bardhaman Zilla Parishad for its consideration within a period of one month from the date of communication of this order. The Zilla Parishad, within three months thereafter, after hearing the petitioners in WPA 26569/2023 and the petitioners in WPA 18243/2024 shall take a decision with regard to the grant of a sanctioned plan and the regularisation of the building.

I, make it clear that having regard to the peculiar facts of the case, the Zilla Parishad, subjected to payment of necessary fees, if any, shall grant sanction and regularise the construction, if the building is otherwise in conformity with the applicable building rules.

With the aforesaid directions, **WPA 26569/2023** and **WPA 18243/2024** are disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)