

02.07.2024
Item No. ml.53
Crt.No.02
b.r.

WPA 20260 of 2023

Abdur Rouf Molla
-vs-
The State of West Bengal & Ors.

Mr. Soumitra Banerjee
Mr. Giasuddin Mollah
Mr. Rabindra Nath Chakraborty
.... For the petitioner.

Mr. Sasanka Kumar Mondal
Mr. Aniruddha Lahiri
... for the respondent nos. 10 and 11.

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

Considering the issue in this writ petition, this Court is of the view that there is no scope for any interim order.

The allegation made by the petitioner is that unauthorized construction of an alleged cremation ground at the behest of the private respondents.

The petitioner submits that no prior permission has been obtained under **Sections 3 and 4 of the West Bengal Religious Building and Places Act, 1985.**

The concerned Panchayat and its Prodhan are not represented despite notice. The law presumes they do not intend to defend this writ petition.

Mr. Aniruddha Lahiri, learned advocate appearing for the private respondent nos. 10 and 11 submits that

a possession certificate was delivered in favour of the private respondents by the Prodhan on February 15, 2024. He further submits that the cremation ground is being carried out for about more than last 100 years.

The petitioner has submitted a representation dated **July 10, 2023**, inter alia, before the respondent no.,6, **annexure p-4 at page-20** to the writ petition and the same has not yet been disposed of.

Considering the rival contention of the parties and considering the materials on record, the respondent no.6 upon notice to the petitioner and, the private respondents and the Prodhan of the concerned Panchayat shall first cause a physical inspection of the said alleged unauthorized and illegal construction and then after giving them an opportunity of hearing shall decide the representation dated **July 10, 2023** as referred to above by passing a reasoned order in accordance with law.

The entire exercise as directed herein, shall be carried out and completed by the respondent no.6 positively within a period of **six weeks** from the date of communication of this order. The respondent no.6 then shall communicate the reasoned order to the petitioner, the Prodhan 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 made in the said representation dated July 10, 2023 and also the rival contentions of the parties. The petitioner, Prodhan 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 respondent no.6.

In the event, the reasoned order goes in favour of the petitioner then the respondent no.6 shall take all necessary steps to give an immediate effect thereof and consequential effect thereof 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 petitioner, if the petitioner is not eligible to receive his claim strictly in terms of its representation dated July 10, 2023 in accordance with law. The issue before the respondent no.6 shall not travel beyond the scope of the said representation dated July 10, 2023.

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 20260 of 2023** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)