

02.07.2024
Item No. ml.55
Crt.No.02
b.r.

WPA 20413 of 2023

Provash Chandra Gharami
-vs-
The State of West Bengal & Ors.

Mr. Jaharlal Roy
... for the petitioner.

Mr. Suranjan Mondal
Ms. Mousumi Biswas
.... For the Resp, no.4

Mr. Syed N. Hossain
Mr. Sujit Chatterjee
... for the State.

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

Mr. Jaharlal Roy, learned advocate appears for the petitioner.

Mr. Syed N. Hossain, learned advocate appears for the respondent nos. 1 and 2/ State.

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

The petitioner complains of an alleged unauthorized and illegal construction on the subject piece of land at the best of the private respondent no.4. The petitioner has submitted a representation dated **June 22, 2023 annexure p-2 at page-18** to the writ petition before the Prodhan of the concerned Panchayat

but the same has not yet been considered. A copy of the said representation was also given to the Prodhan.

Learned counsel appearing for the private respondent no.4 submits that he has been renovating and repairing his dwelling house on the subject piece of land which is owned by the private respondent.

Learned counsel for the petitioner denies and disputes the submissions made on behalf of the private respondents and he submits that under the garb of repairing the petitioner has been carrying out illegal and unauthorized construction without obtaining any sanction plan.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, the Prodhan of the concerned Gram Panchayat is directed upon issuing a prior notice to the petitioner and the private respondent nos. 4 to 9 shall cause a physical inspection of the alleged unauthorized and illegal construction and then after granting them an opportunity of hearing shall decide the representation of the petitioner as referred to above by passing a reasoned order in accordance with law.

It is made clear that the entire exercise shall be carried out and completed by the Prodhan positively within a period of **six weeks** from the date of communication of the order. The Prodhan then shall

communicate the reasoned order to the petitioner and the private respondents positively within 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 contentions of the parties as recorded above and the parties 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 Prodhan but the same shall not travel beyond the scope of the said representation of the petitioner dated **June 22, 2023** to the writ petition.

In the event, the reasoned order confirms the unauthorized and illegal construction, then the Prodhan positively within a period of **seven days** from the date of communication of the said reasoned order to the parties shall transmit the same and refer 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 shall then take all necessary and consequential steps to give an immediate effect to the said reasoned order expeditiously and without delay and in accordance with law.

It is made clear that this order shall not create any right or equity in favour of the parties, if they do not succeed to their respective contentions 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.

The petitioner 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 Prodhan of the concerned Panchayat.

With the above observations and directions, this writ petition, **WPA 20413 of 2023** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)