

Court No. 2
08.7.2024
(Item No. 11)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 21060 of 2023

Dulal Dolui & Ors.
VS
Moukhali Gram Panchayat & Ors.

Mr. Bhabani Prasad Mondal
Mr. Sukanta Mondal
.... For the petitioners
Mr. Lalit Mohan Mahata
Mr. Ziaul Haque
.... For the State
Mr. Tapas Kumar Mondal
.... For the respondent No. 3

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

Mr. Bhabani Prasad Mondal, learned advocate appears for the petitioners.

Mr. Tapas Kumar Mondal, learned advocate appears for the concerned Zilla Parishad.

Mr. Lalit Mohan Mahata, learned Additional Government Pleader appears for respondent Nos. 4 to 7 and 9.

None appears for the private respondent, despite notice. The law presumes that, he does not intend to defend this writ petition.

The petitioners complain of an alleged illegal and unauthorized construction within the domain of the concerned Zilla Parishad at the behest of the private respondent. The petitioners had submitted a

representation dated **May 22, 2023, Annexure-P-13 at page 51** to the writ petition before the concerned Zilla Parishad but the same has not been considered.

In view of the above, the Zilla Parishad through its appropriate jurisdictional authority upon notice to the petitioners and the private respondent shall cause a physical inspection of the alleged unauthorized and illegal construction and then after granting an opportunity of hearing to them shall decide the said representation dated **May 22, 2023** by passing a reasoned order in accordance with law.

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

The appropriate authority then shall communicate its reasoned order to the petitioners and the private respondent 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 petitioners in terms of its said representation. 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 appropriate jurisdictional authority under the statute but the same shall not travel beyond the scope of the said representation as referred to above.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, then the appropriate authority under the statute shall take all necessary and consequential steps to give an immediate effect to the said reasoned order following the due process of law expeditiously and without any delay but strictly in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioners or the private respondent, if the petitioners do not succeed to their claim made in the said representation 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 21060 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.)