

**24.09.2024**

Item No. 33

Crt.No.02

b.r.

**WPA 21747 of 2024**

***Fansur Rahaman***

***-vs-***

***The State of West Bengal & Ors.***

**Mr. Partha Pratim Roy**

**Mr. Vishal Mallick**

**..... for the petitioner.**

**Mr. Chandi Charan De, Ld. AGP**

**Ms. Reshma Chatterjee**

**.... For the State-respondents.**

Mr. Vishal Mallick, learned advocate appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondent nos. 1 to 6.

None appears for the private respondent nos. 7 to 9.

The petitioner complains of an alleged illegal and unauthorized construction and encroachment on PWD land at the behest of the private respondents.

The petitioner has submitted a representation dated **January 17, 2023, annexure p-5 at page-21** to the writ petition but the same has not yet been disposed of.

In view of the above, the **respondent no.3** is directed upon serving a prior hearing notice of at least

**seven days** to the petitioner and private respondent nos. 7 to 9 shall cause a physical inspection on the alleged illegal structure and encroachment on the PWD land and then after granting them an opportunity of hearing shall dispose of the said representation dated **January 17, 2023, annexure p-5 at page-21** to the writ petition by passing a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the **respondent no.3** positively within a period of **six weeks** from the date of communication of this order. The reasoned order then shall be communicated to the petitioner and the private respondents 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 rival contentions of the petitioner or the private respondents and they shall be free to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the **respondent no.3** but the same shall not travel beyond the scope of the said representation dated **January 17, 2023.**

In the event, the reasoned order confirms the illegal and unauthorized structure and the encroachment as alleged, the respondent no.3 and/or

the other appropriate State authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order but positively within a period of **four weeks** from the date of the said reasoned order to be passed, in accordance with law.

It is made clear that this order shall not create any right or equity in favour either of the petitioner or of the private respondents if they do not succeed to their respective contentions before the respondent no.3, 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 21747 of 2024** stands **disposed of**, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

**(Aniruddha Roy, J.)**