

16 01.8.2024
Sc Ct. no.2

WPA 22848 OF 2023

Aktar Ali Khan

Vs.

The State of West Bengal & Ors.

Mr. Salil Kumar Maiti
Mr. Dolon Samanta.

... For the Petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar.

.... For the Respondent
Nos. 1 to 6

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

Mr. Salil Kumar Maiti, learned advocate appears for
the petitioner.

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

The private respondent nos. 7 to 12 are not
represented, despite service. The law presumes that, they
do not intend to defend this writ petition

The petitioner complains of an alleged illegal and
unauthorized construction on PWD land at the behest of
the private respondents. The petitioner submitted a
representation dated **June 1, 2023, Annexure-P6 at
page 41** to the writ petition, still the same has not yet
been considered.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record, the respondent no.3 is directed upon issuing prior notice to the petitioner and the private respondents to cause a physical inspection of the alleged encroachment on PWD land and then after giving them an opportunity of hearing and also if any other interested parties are there shall dispose of the said representation of the petitioner dated **June 1, 2023** as referred to above 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 shall be communicated to the petitioner and all the participants in the hearing 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 or the private respondents. The petitioner, the private respondents and any other interested parties who shall participate in the hearing 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.3 but the same shall not travel beyond the scope of the representation dated **June 1, 2023**.

In the event, the reasoned order confirms the alleged encroachment on the PWD land, the respondent no.3 shall take all necessary and consequential steps in accordance with **Section 10** of the **West Bengal Highways Act, 1964** to give an immediate effect to the said reasoned order.

It is needless to mention that, the respondent no.4 shall take all consequential steps to give effect to the said reasoned order but positively within a period of **six weeks** from date of communication of the said reasoned order by the respondent no.3.

It is made clear that, this order shall not create any right or equity in favour of the petitioner or the private respondents or any other interested 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.

With the above observations and directions this writ petition, **WPA 22848 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.)