

26.11.2024
Ct. No. 2
Sl. No. 26
Moumita

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 24034 of 2024

Manindranath Biswas @ Manindra Biswas
Vs
The State of West Bengal and Ors.

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
Ms. Deblina De
..... for the Petitioner

Mr. Timir Baran Saha
.....for respondent no. 9

Mr. Ayan Banerjee
Mr. Amritalal Chatterjee
....for the state/respondent nos. 1 to 8

Pursuant to the direction made by this court on **October 4, 2024**, today Mr. Amritalal Chatterjee, learned advocate led by Mr. Ayan Banerjee, learned state counsel files a report on behalf of the respondent no. 3 in the form of affidavit affirmed on **November 22, 2024**, the same is taken on record. Copy has already served upon the petitioner.

The report filed today shows that the **Joint Inspection Report** was submitted before the District Magistrate Nadia on **July 11, 2024**. Whether the **Joint Inspection Report** has been served upon the petitioner at all or before **August 28, 2024** when the impugned order was passed at **page 55** to the writ petition is not available from record.

Mr. Shibaji Kumar Das, learned counsel appearing for the petitioner submits that till date the **Joint Inspection Report** has not been served on the petitioner.

Learned counsel appearing for the state and Mr. Timir Baran Saha, learned counsel appearing for the private respondent no. 9 submit that while the physical inspection was carried out petitioner was present and the inspection took place in presence of the petitioner.

Referring to **Annexure P 11** at **page 43** to the writ petition which is a letter written by the petitioner dated **August 23, 2023**, learned counsel appearing for the private respondents submits that the petitioner has admitted the encroachment on PWD land.

Be that at it may, this court is of the view that before the impugned order was passed on **August 28, 2024** the petitioner should have been served with a copy of the Joint Inspection Report and should have been granted an opportunity to make his submission on the same. In absence of such opportunity being granted to the petitioner the impugned order dated **August 28, 2024** stand vitiated. The impugned order is thus **set aside** and **quashed**.

The report filed today before the court has already been served upon the petitioner and at **page 11** thereto

is the **Joint Inspection Report**. The petitioner is therefore now aware of the **Joint Inspection**.

In view of the above, the respondent no. 2 upon issuing prior hearing of at least seven days to the petitioner and the private respondent no. 9 shall decide the issue afresh on the basis of the existing materials before him on the basis whereof the impugned order was passed on **August 28, 2020**.

The entire exercise shall be carried out and completed by the **respondent no. 2** within a period of **four weeks** from the date of the communication of this order.

In the event, the reasoned order confirms the encroachment, the respondent no. 2 and the other jurisdictional state authority shall take necessary and consequential steps to give an effect to the said reasoned order in accordance with law, but positively within a period of **four weeks** from the date of the said reasoned order to be passed.

The order of status quo passed in this writ petition shall continue till the reasoned order is passed by the respondent no. 2.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 24034 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)