

Court No. 2
13.11.2024
(Item No. 14)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 24507 of 2024

Shibshankar Adhikari
VS
The State of West Bengal & Ors.

Mr. Rwitendra Banerjee
Mr. Shibasis Chatterjee
Mr. Sandip Kundu
.... For the petitioner

Mr. Chandi Charan De
Mr. Reshma Chatterjee
.... For the State

Mr. Sounak Banerjee
Mr. Debarshi Das
Mr. Amit Pan
.... For respondent Nos. 7 & 8

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

Mr. Rwitendra Banerjee, learned advocate
appears for the petitioner.

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

Mr. Sounak Banerjee, learned advocate
appears for respondent Nos. 7 & 8.

None appears for respondent No. 9, despite
notice.

The petitioner complains of an illegal filling up
of water body and causing construction thereupon at
the behest of the private respondent.

The petitioner submitted his representation dated **September 9, 2024, annexure P-1** at **page 12** to the writ petition but the same has not been considered.

In view of the above, the respondent No. 5 upon issuing a prior hearing notice of at least seven days to the petitioner, private respondent No. 9 and respondent No. 8 and after granting them an opportunity of hearing shall dispose of the said representation dated **September 9, 2024, annexure P-1** at **page 12** 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. 5 within a period of **eight weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioner, respondent Nos. 8 and 9 positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is needless to mention that, to carry out this direction, if necessary, a physical inspection of the subject water body can be directed by the respondent No. 5 to be conducted in presence of the petitioner, respondent Nos. 8 and 9.

The reasoned order shall also be similarly communicated to the respondent No. 3 if the illegal

activity as alleged by the petitioner against the private respondent is confirmed.

The respondent No. 3 shall then take all necessary and consequential steps to give immediate effect to the said reasoned order in accordance with law but positively within a period of **four weeks** from the date of receiving the said reasoned order from the respondent No. 5.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the private respondent No. 9. They shall be at liberty to urge whatever points they wish to urge before the respondent No. 5 by relying upon whatever records and documents they wish to rely upon but the same shall not travel beyond the scope of the said representation dated **September 9, 2024** as referred to above.

It is also made clear that, this order shall not create any right or equity in favour of the petitioner or the private respondent if they do not succeed to their respective claims before the respondent No. 5 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 **W.P.A. 24507 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)