

**690**  
**22.02.2024**  
Ct. No.10  
b.das

**WPA 23826 of 2023**

**Usuf Rahaman**  
**Vs.**  
**The State of W.B. & Ors.**

Mr. Pratip Kr. Chatterjee ...for the petitioner.

Mr. Ayan Banerjee  
Mr. Biswajit Das ...for the State.

Mr. Manas Kumar Das  
Mr. Arintra Kr. Thokdar ...for private respondents.

Affidavit of service filed by the petitioner and instructions submitted on behalf of the State respondents are taken on record.

Heard learned counsels for the parties.

The petitioner complains of unauthorised construction raised by the private respondents by encroaching upon PWD road adjoining his plot, thereby obstructing his egress and ingress.

The petitioner has sought removal of such encroachment and made several representations before the authority in this regard and pray for a direction upon the authority to consider the representations at the earliest.

Placing reliance on the instructions submitted by him, the learned counsel for the State respondents submits that pursuant to the representations submitted by the petitioner, proceeding under Section 10 of the West Bengal Highways Act, 1964 has been initiated and concluded by

an order passed under Section 10(3) of the Act. The Assistant Engineer, PWD, Kandi by a letter issued on 10<sup>th</sup> October, 2023, requested the Officer-in-Charge, Burwan Police Station, Murshidabad for assistance for removal of the roadside encroachments.

A Public Interest Litigation was filed by respondent no.41 herein, and by an order passed on 21<sup>st</sup> August, 2023 the Hon'ble Division Bench has held that the roads and road margins are meant for free movement of the public and the traffic and there cannot be any hindrance to such activities, equally so are the pavements which are meant for pedestrians. The Hon'ble Division Bench left the matter for consideration by the Sub-Divisional Officer, Kandi.

Upon consideration of the submission made on behalf of the parties as well as material on record, this Court is inclined to hold that since proceeding under Section 10 of the West Bengal Highways Act, 1964 has been concluded and the issue awaits removal of the unauthorised construction with the assistance of the police, it is expected that such assistance shall be rendered by the 9<sup>th</sup> respondent and the encroachment removed at the earliest, not later than one month from the date of communication of this order.

Since nothing further remains to be adjudicated in the writ petition, the same is disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Suvra Ghosh, J.)**