

13th February,
2024
(AK)
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W.P.A 24462 of 2022

Nur Islam Molla
Vs.
The State of West Bengal and others

Mr. Md. Giasuddin Mulla
...for the petitioner.

Mr. T.M. Siddiqui
Mr. Suddhadev Adak
...for the State.

1. The petitioner alleges that in contravention of Sections 3 and 4 of the West Bengal Religious Buildings and Places Act, 1985, the private respondents are attempting to construct a mosque within the prohibited vicinity of the radius of 250 meters of a location where a Hindu temple and a Hindu crematorium are located.
2. Although the petitioner wrote to the appropriate authorities under the said Act, that is, the Collector/District Magistrate, District North 24 Parganas and the Commissioner of Police in that regard, no steps have been taken by the said authorities in that regard.
3. Learned counsel for the State seeks some time to furnish a report from the concerned authorities.
4. However, it would not be appropriate for the writ court to enter into the factual disputes, particularly

since designated authorities have been prescribed under the 1985 Act for such purpose.

5. Instead of usurping the jurisdiction of such authorities and depriving all concerned of a forum of challenge, judicial propriety demands that the representation given in that regard by the petitioner is considered and decided in accordance with law by the said authorities.
6. Accordingly, WPA 24462 of 2022 is disposed of by directing the respondent no.2, that is, the Commissioner of Police and respondent no.3, that is, the Collector/District Magistrate, North 24 Parganas to decide the representations of the petitioner annexed to the present writ petition upon giving opportunity of hearing to all concerned, in accordance with law, in particular with reference to the 1985 Act, as expeditiously as possible, positively within six weeks from date, upon giving adequate opportunity of hearing to all concerned.
7. It is made clear that the merits of the allegations have not been gone into and it will be deemed that none of the allegations in the writ petition are admitted by any of the respondents.
8. Leave is granted to the learned Advocate for the petitioner, on his prayer, to carry out the necessary amendment to the cause title of the writ petition during the course of the day.

9. There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)