

26.07.2024
Item No. 22
Crt.No.02
b.r.

WPA 26593 of 2022

Asto Mondal & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Md. Zeeshanuz Zaman
.... For the petitioner.

Mr. Chandi Charan De, Ld. AGP
Mr. Anirban Sarkar
... for the State.

Mr. Sujoy Sarkar
... for the Zilla Parishad.

Affidavit of service is already on record.

Mr. Md. Zeeshanuz Zaman, learned advocate
appears for the petitioners.

Mr. Chandi Charan De, learned Additional
Government Pleader appears for respondent nos. 1, 2
and 4 to 8.

Mr. Sujoy Sarkar, learned advocate appears for
the concerned Zilla Parishad.

The petitioners complain of an alleged
encroachment of public land at the behest of the
private respondent nos. 10 to 24.

The petitioners submitted a representation dated
August 16, 2022 annexure p-4 at page-37 before the
various authorities but the same has not yet received
any attention of such authorities. The dispute
principally runs that who shall decide the encroachment

whether the **Public Works Department (PWD)** or the **Surdarban Development Board**. The Surdarban Development Board is not impleaded in this writ petition.

Learned counsel representing the parties before this Court jointly submit that the **respondent no.4** is the appropriate authority, who can decide the issue.

After considering the submissions made on behalf of the parties, and upon perusal of the materials on record, the **respondent no.4** is directed upon issuing prior notice to the petitioners and the private respondents to cause a physical inspection of the alleged encroachment through its one responsible and appropriate delegatee and then the **respondent no.4** shall **personally** after giving an opportunity of hearing to the petitioners, private respondents, the Sabhadhipati of the concerned Zilla Parishad, the authority of the Surdarban Development Board and respondent no.6 shall dispose of the said representation dated **August 16, 2022** 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.4 positively within a period of **eight weeks** from the date of communication of this order. The respondent no.4 then shall communicate its reasoned order to all the

parties who shall attend the hearing before him 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 petitioners mentioned in the said representation dated **August 16, 2022** neither has gone into the merits of the submissions made on behalf of the other appearing parties. The petitioners and all other parties who shall be attending the hearing before the respondent no.4 shall be at liberty to urge whatever points they wish to urge 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 **August 16, 2022** as referred to above.

In the event, the reasoned order confirms the alleged encroachment then the appropriate jurisdictional authority shall take all necessary and consequential steps to give effect to the said reasoned order in accordance with law but positively within a period of **two weeks** from the date of the said reasoned order to be communicated to such authorities.

It is made clear that this order shall not create any right or equity in favour of the petitioners or any other parties, if they do not succeed to their respective

submissions strictly in accordance with law before the
respondent no.4

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 26593 of 2022** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)