

Item No.31

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

15.04.2024
Ct-24

WPA 28244 of 2023

Paresh Santra
v.
The State of West Bengal & Ors.

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K. Raihan Ahmed
Mr. Rudranil Das
... for the petitioner.

Ms. Mekhla Sinha
... for the Howrah Zilla Parishad.

Mr. Pritam Choudhury
Mr. Subrata Bhattacharjee
... for the State respondents.

The order dated November 8, 2023 passed by the District Engineer, Howrah Zilla Parishad is impugned in the instant writ petition.

The construction which has been alleged to be unauthorized falls within the jurisdiction of a Gram Panchayat and the dimension of the construction is such that the issue of unauthorized construction is required to be heard and decided by the Gram Panchayat. The Howrah Zilla Parishad does not have any authority to decide the issue of unauthorized construction raised herein.

It appears that in the earlier writ petition filed by the petitioner the Court directed the competent authority of the Zilla Parishad to take necessary steps as per law. The Zilla Parishad ought to have clearly mentioned that

the Zilla Parishad was not the competent authority to decide the issue.

As the Gram Panchayat is the competent authority to decide the issue, accordingly, the order passed by the District Engineer, Howrah Zilla Parishad is liable to be set aside. The order dated November 8, 2023 is, accordingly, set aside.

The matter is required to be decided denovo by the Gram Panchayat.

The petitioner is directed to forward the objection alleging unauthorized construction to the Gram Panchayat. The Panchayat shall decide the issue of unauthorized construction in accordance with law after giving reasonable opportunity of hearing to all the necessary parties at the earliest but positively within a period of twelve weeks from the date of communication of this order.

If the allegation of unauthorized construction is found to be genuine, then the entire proceeding shall be forwarded to the Sub-Divisional Officer for taking subsequent steps in the matter.

It will be open for the Gram Panchayat to conduct a spot inspection to ascertain the exact nature and extent of unauthorized construction upon prior notice to all the necessary parties.

The writ petition stands disposed of.

Report filed by the Assistant Engineer, Howrah Zilla Parishad signed on March 19, 2024 be kept on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)