

S/L 2
23.05.2025
Court. No. 19
Sourav

WPA 649 of 2025

**Lipika Biswas
Vs.
State of West Bengal & Ors.**

Mr. Soumyadeep Biswas

...for the petitioner.

Mr. Ayan Banerjee

Mr. Amrita Lal Chatterjee

...for the State.

1. Two numbers of affidavit-of-service as filed today on behalf of the writ petitioner is taken on record.
2. Despite service, none appears on behalf of the private respondent no. 8.
3. It is submitted on behalf of the writ petitioner that since the private respondent no. 8 has made an illegal construction encroaching P.W.D. road in front of the writ petitioner's property, particulars of which has been mentioned in paragraph 4 of the instant writ petition and since such illegal construction is obstructing free egress and ingress of the writ petitioner to his property, the writ petitioner approached the appropriate authority in this regard and pursuant to such, the private respondent no. 8 was served with notice under Section 10(1) of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964' in short) copies of which are available at Page Nos. 34 and 35 of the instant writ petition.
4. At this stage, learned advocate for the writ petitioner also draws attention of this Court to Page No. 37 of the

instant writ petition being a copy of memo dated 29.05.2024 as issued by the respondent no. 5/authority to the respondent no. 3/authority intimating him that despite service of notice twice upon the private respondent no. 8, the said private respondent no. 8 has not removed the encroachment.

5. It is submitted on behalf of the writ petitioner that in view of the provision of Section 10(2) and Section 10(3) of the said Act of 1964, the respondent no. 3/authority is duty bound to proceed in accordance with the provisions of Section 10(2) and Section 10(3) of the said Act of 1964.
6. Learned advocate appearing on behalf of the respondent/State submits before this Court that an appropriate order may be passed directing the respondent no. 3/authority to act in accordance with law.
7. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the writ petitioner and the respondent/State, it appears to this Court that sufficient materials have been placed before this Court that the private respondent no. 8 was served with notice under Section 10(1) of the said Act of 1964 twice and despite service of such notice, the private respondent no. 8 has not removed the encroachment which according to the writ petitioner is causing obstruction to the free egress and ingress to his property.

8. In view of such while disposing the instant writ petition, this Court directs the respondent no. 3/authority to initiate proceeding under Section 10(2) and Section 10(3) of the said Act of 1964 forthwith and after service of notices upon the writ petitioner and the private respondent no. 8 and after giving due opportunity of hearing to them and/or their authorized representatives shall come to a logical conclusion of the same positively within 45 working days from the date of communication of the server copy of this order.
9. The time limit as fixed by this Court is mandatory and preemptory.
10. In the event, the respondent no. 3/authority while passing the reasoned order finds that the private respondent no. 8 has really encroached a P.W.D. land, he is directed to take appropriate steps for immediate removal of the private respondent no. 8 soon thereafter.
11. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent no. 3/authority.
12. The respondent no. 3/authority is hereby directed to act on the server copy of this order.
13. With the aforementioned observation, the instant writ petition being **WPA 649 of 2025** is disposed of.
14. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)