

S/L 13
04.04.2025
Court. No. 236
Sourav

WPA 1479 of 2025

**Amit Dhara
Vs.
The State of West Bengal & Ors.**

*Ms. Susmita Saha Dutta
Mr. Dip Jyoti Chakraborty
Mr. Niladri Saha
Ms. Madhurima Basu
Ms. Pallabi Ghosh*

...for the petitioner.

*Mr. Soumitra Bandyopadhyay, Sr. Adv.
Mr. Suchana Banerjee*

...for the State.

*Mr. Bhagbat Chowdhury
Mr. Lalratan Mondal
Mr. Dilip Kumar Sadhu*

...for the private respondents.

1. The writ petitioner, the respondent/State and its functionaries i.e., the respondent nos. 1 to 7 and respondent nos. 8 and 9 are represented by their respective counsels.
2. Challenge in this writ petition is the order dated 23.12.2024 as passed by the Executive Engineer, PWD, Midnapur Division i.e., the respondent no. 3 herein whereby and whereunder the said respondent no. 3/authority in a proceeding under Section 10 of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964') had come to a specific finding that the present petitioner and others are unauthorizedly occupying the government land and accordingly, the respondent no. 3 directed the respondent no. 4/authority to complete the eviction process as per the said Act of 1964.

3. In course of hearing, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to the order under challenge as has been annexed with the instant writ petition at page nos. 69 to 75. At this stage, learned advocate appearing on behalf of the writ petitioner further draws attention of this Court to page no. 63 of the instant writ petition being a server copy of the order and judgment dated 04.07.2024 as passed by a co-ordinate Bench of this Court in WPA 16772 of 2024. Drawing attention to paragraph no. 6 of the said order and judgment dated 04.07.2024, it is submitted on behalf of the writ petitioner herein that while disposing the said writ petition, the said co-ordinate Bench directed the Executive Engineer, Kharagpur Division to hear out the matter in dispute of the said writ petition.
4. At this juncture, learned advocate for the writ petitioner draws attention of this Court to page no. 57 of the instant writ petition being a copy of the notification dated 11.08.2015 as published by PWD, Government of West Bengal. It is submitted that from the schedule of the said notification, it would reveal that in respect of Kharagpur Division, PWD, Executive Engineer, Kharagpur Division and the Assistant Engineers under Kharagpur Division having jurisdiction of the road are the Highway Authorities under the said Act of 1964 and which is why, the said co-ordinate Bench directed the Executive Engineer, Kharagpur Division to hear the

matter in dispute as involved in the earlier round of litigation.

5. In course of her submission, learned advocate for the writ petitioner submits before this Court that from the order under challenge, it would reveal that the said order has been passed by the Executive Engineer, PWD, Midnapur Division who has neither any authority to hear the matter in dispute nor the Executive Engineer, PWD, Midnapur was permitted to hear out the matter in dispute by a co-ordinate Bench of this Court. It is thus submitted that the order under challenge suffers from material illegality and/or irregularity since the Executive Engineer, PWD, Midnapur Division who is the respondent no. 3 herein has got no jurisdiction to pass the said order under challenge.
6. It is further submitted on behalf of the writ petitioner that prior to passing of the order under challenge no proper inspection was done. It is also contended that from page nos. 77 and 80 of the instant writ petition being copies of the two notifications dated 11.08.2015 and 06.02.2017, it would further reveal that by no stretch of imagination, the respondent no. 3 can assume the power of the Executive Engineer, Kharagpur Division.
7. Per contra, learned advocates appearing on behalf of the respondent/State as well as the private respondents submit before this Court that in the internal page no. 4 of the order under challenge, sufficient explanation has

been given by the respondent no. 3 as to why the respondent no. 3 had heard the matter in dispute and passed the order under challenge.

8. This Court has meticulously gone through the entire materials as placed before this Court and this Court has given its anxious consideration over the submissions of the learned advocates for the contending parties.
9. On careful consideration of the entire materials as placed before this Court, it reveals that in internal page no. 4 of the said order under challenge dated 23.12.2024, the respondent no. 3 clearly recorded that on and from 06.02.2017 in civil sector, PWD, Midnapur Division is looking after the four sub-divisions out of which Kharagpur Sub-Division having head quarter at Kharagpur is one of them as created by transferring Kharagpur Sub-Division from Kharagpur Division, PWD. Dte.
10. Admittedly from the schedule of the notification dated 11.08.2015, it reveals that Contai Belda Road (33.80 Km to 56.36 Km) comes under Kharagpur Division, PWD in District Paschim Midnapur with effect from the date of publication of the said notification. It further reveals from the notification dated 06.02.2017 that with the date of publication of the said notification, the existing Midnapur Division, PWD. Dte. having head quarter at Midnapur will comprise of four Sub-Divisions which includes Kharagpur Sub-Division.

11. It thus appears to this Court that by an internal arrangement, the Kharagpur Sub-Division and/or Kharagpur Division of PWD comes under the Midnapur Division of PWD. Dte.
12. This Court thus considers that the explanation as given by the respondent no. 3 in the internal page no. 4 of his report dated 23.12.2024 is absolutely logical.
13. On careful consideration of the entire materials including the order under challenge, it appears to this Court that prior to passing of the order under challenge dated 23.12.2024 the respondent no. 3 noticed that a fresh spot enquiry was done by the Assistant Director and Block, Land and Land Reforms Officer, Dantan – II, Paschim Midnapur after proper notice to all interested parties.
14. In course of her submission, learned advocate for the writ petitioner strongly contended that at the time of the alleged enquiry, the presence of the writ petitioner was not secured.
15. In absence of any contrary material, this Court finds no justification in the submission of the learned advocate for the writ petitioner that prior to spot enquiry no notice was served upon the writ petitioner.
16. From the order under challenge dated 23.12.2024, it reveals further that the respondent no. 3 had passed a reasoned order after giving due opportunity of hearing to all concern and thus by no stretch of imagination it can be said that the principle of natural justice has not

been followed. So far as the merit of the order under challenge is concerned, it appears to this Court that the respondent no. 3 has passed the said order in exercise of his executive power and this Court in a judicial review should not interfere in the domain of the administration unless sufficient materials have been placed before this Court that the order under Challenge is either perverse or not sustainable in law.

17. From the order under challenge dated 23.12.2024, it reveals to this Court that the writ petitioner and others are unauthorizedly occupying the government land. In view of such, this Court considers that the writ petitioner is also not entitled to any equity from this writ Court.
18. This Court thus holds that the instant writ petition is devoid of any merit and thus the instant writ petition is liable to be dismissed.
19. Before parting with, this Court directs the respondent no. 4 to implement the order dated 23.12.2024 as passed by the respondent no. 3 positively within a period of 30 working days from the date of communication of this order.
20. The respondent no. 4 is hereby directed to act on the server copy of this order.
21. Learned advocate for the respondent/State as well as the learned advocate for the respondent nos. 8 and 9 are requested to communicate the server copy of this order to the respondent no. 4 for his due compliance.

22. In view of the discussion made hereinabove, the instant writ petition being **WPA 1479 of 2025** is dismissed.
23. There shall, however, be no order as to costs.
24. 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.)