

S/L 16
15.05.2025
Court. No. 19
Sourav

WPA 1665 of 2025

Mr. Anup Kumar Das
Vs.
The State of West Bengal & Ors.

Mr. Nilkamal Ghosh

...for the petitioner.

Mr. Chandi Charan De, Ld. AGP
Ms. Tuli Sinha

...for the State.

Mr. Soumen Kr. Dutta
Mr. Subham Dutta

...for the respondents.

1. The writ petitioner, the respondent/State and the private respondent nos. 7 to 10 are represented by their respective learned advocates.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities for removal of unauthorized construction at the instance of the private respondents which according to the writ petitioner is creating obstruction to the free egress and ingress of his property situated at Mouza – Jahalda, L.R. Dag No. 1167, P.S. Belda, District – Paschim Medinipur as has been purchased by the writ petitioner.
3. At the time of hearing, Mr. Ghosh, learned advocate appearing on behalf of the writ petitioner draws attention of this Court to various paragraphs of the instant writ petition. It is submitted on behalf of the writ petitioner that since the private respondents have made illegal construction in front of the land of the writ

petitioner over encroaching the village road which belongs to Jila Parishad, appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition. It is further submitted that the writ petitioner is constrained to file the instant writ petition since the writ petitioner's representation dated 30.09.2024 remained unattended till date.

4. Per contra, Mr. Dutta, learned advocate appearing on behalf of the private respondents submits before this Court that the instant writ petition is not entertainable since the alleged construction has not been made upon any highway within the meaning of West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964' in short). It is submitted that since the road in question has not been transferred to the PWD authority, the said Act of 1964 cannot be made applicable in the instant writ petition.
5. It is further submitted that from the pleadings of the writ petitioner, it would reveal that the writ petitioner is not an aggrieved party and, therefore, the instant writ petition is not at all maintainable in view of the judgment dated 14.08.2014 passed in MAT 963 of 2014 (***Avijit Dandapat & Ors. Vs. Sunil Roy & Ors.***) as decided by a Hon'ble Division Bench of this Court.
6. It is further submitted that the writ petitioner has got no locus to file the instant writ petition in view of the fact that the writ petitioner has failed to furnish any cogent material to substantiate that the private

respondents have made any encroachment. In this regard, learned advocate appearing on behalf of the private respondents places his reliance upon a judgment dated 03.04.2024 as passed by a co-ordinate Bench while disposing WPA 24950 of 2018.

7. Per contra, Ms. Sinha, learned advocate appearing on behalf of the respondent/State duly led by Mr. De, learned AGP draws attention of this Court to various provision of the said Act of 1964. It is submitted by Ms. Sinha that under Section 2(c), any government road comes under the purview of 'highways' and under Section 2(bb), 'government road' means and includes a road vested in government. It is thus submitted that under Section 8 of the said Act of 1964, a person cannot encroach any portion of a highway without obtaining previous permission in writing from the Highway authority.
8. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that it is the grievance of the writ petitioner that the private respondents have made some construction over the Jila Parishad road thereby causing obstruction as to the free egress and ingress to the aforementioned land of the writ petitioner as has been purchased by the writ petitioner. Such contention is, however, opposed by Mr. Dutta, learned advocate appearing on behalf of the private respondents.

9. In considered view of this Court the unreported decision of ***Avijit Dandapat & Ors. (supra)*** as has been cited from the side of the private respondents has got no manner of application in the instant *lis* in view of the fact that in the said appeal the Hon'ble Division Bench passed an order against interim order passed by a writ Court. In further considered view of this Court, the decision of ***Barendra Nath Sahoo Vs. The State of West Bengal & Ors.*** as also cited from the side of the private respondents is also not applicable in the facts and circumstances of the present case in view of the fact that no case has been made out on behalf of the writ petitioner that he has filed the instant writ petition for any public purpose.
10. On the contrary, it appears to this Court that sufficient materials have been placed before this Court that it is the grievance of the writ petitioner that on account of alleged construction by the private respondents over Jila Parishad road, the free egress and ingress to the writ petitioner's land has been obstructed. In order to substantiate such contention, the writ petitioner made a representation with the respondents/authorities on 30.09.2024. No materials could be placed before this Court by the respondent/State that the grievance of the writ petitioner has at all been addressed.
11. At this juncture, this Court proposes to look to some provisions of the said Act of 1964. As rightly pointed out by Ms. Sinha that Section 2(c) of the said Act of 1964

clearly mandates that any government road comes under the purview of 'highway'. It further reveals from Section 2 (bb) that a 'government road' means a road vested in government.

12. Such being the position, this Court has no hesitation in mind to hold that a road which belongs to the Jila Parishad comes under the purview of 'government road' and, therefore, there cannot be any difficulty in applying the provisions of the said Act of 1964 in the instant *lis*.
13. As also rightly pointed out by Ms. Sinha that no person under Section 8 of the said Act of 1964, no person is entitled to make any encroachment of on any highway including any government road without obtaining previous permission in writing from the highway authority.
14. Such being the position, this Court while disposing the instant writ petition directs the respondent 4/authority to make a spot verification and/or enquiry in terms of the representation of the writ petitioner dated 30.09.2024 after serving prior notices to the writ petitioner as well as to the private respondents. After conclusion of such enquiry, the respondent no. 4 shall submit his report with the respondent no. 3/authority.
15. The respondent no. 3/authority and/or any other officer authorized by him in this behalf after receipt of such report, shall cause service of notice upon the writ petitioner as well as to the private respondents and,

thereafter, giving an opportunity of hearing to the writ petitioner and the private respondents and/or their authorized representatives shall pass a reasoned order in writing in terms of the provisions of the said Act of 1964 and shall communicate such order to the writ petitioner and the private respondents forthwith preferably by mail, if the mail details of the writ petitioners and the private respondents are furnished to him at the time of hearing.

16. The entire exercise as indicated in the foregoing paragraphs is to be completed by the respondent no. 5 as well as the respondent no. 3 and/or any other officer authorized by him this behalf within 90 working days from the date of communication of the server copies of this order.
17. Liberty is given to the learned advocate on record of the writ petitioner to communicate the server copy of this order along with a copy of the representation dated 30.09.2024 to the respondent nos. 3 and 4 for their immediate compliance.
18. Before parting with, it is further directed that in the event, the respondent no. 3 finds sufficient merit in the representation of the writ petitioner, the respondent no. 3 and/or any other officer authorized by him this behalf is directed to proceed under Section 10(1) of the said Act of 1964 soon thereafter.
19. With the aforementioned observations, the instant writ petition being **WPA 1665 of 2025** is disposed of.

20. 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.)