

43 12.2.2025
Sc Ct. no.2

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 2014 OF 2025

Ainul Mallick

Vs.

The State of West Bengal & Ors.

Mr. Rajib Kumar Acharyya
Mr. Banshi Badan Maity
Mr. Goutam Malik.

.... For the Petitioner

Mr. Chandi Charan De, AGP
Ms. Reshma Chatterjee.

.... For the Respondents
State

Mr. Sayan Banerjee

.... For the Private
Respondent Nos.10-14

Affidavit-of-service, filed in Court today, is taken on
record.

Mr. Banshi Badan Maity, learned Advocate appears
for the petitioner.

Mr. Chandi Charan De, learned Additional
Government Pleader appears for the respondents State.

Mr. Sayan Banerjee, learned Advocate appears for
the private respondent nos. 10 to 14.

The petitioner complains of an alleged
encroachment and unauthorized construction on the
PWD land at the behest of the private respondents. The
petitioner submitted a representation dated **January**

20, 2025, Annexure P2 at page-22 to the writ petition, but the same has not yet been dealt with.

Learned Advocate appearing for the respondent nos. 10 to 14 has denied and disputed the submissions made on behalf of the petitioner. He submits that, there has been no encroachment on the PWD land. He further submits that the entire structure has been constructed on the personal land of the private respondents of which they are the owner and no part of the PWD land has been encroached. He submits that the nature of this writ petition is of public interest litigation.

The encroachment has been alleged by the writ petitioner on a public land. The concerned public authority is duty bound to take cognizance of it. If ultimately the encroachment is confirmed at the instance of the private individuals, namely the respondent nos. 10 to 14 herein, such jurisdictional public authority shall remove the encroachment in accordance with law. Such a cause of action cannot be considered as a cause of action involving any public interest litigation.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (B.L. & L.R.O) upon prior notice to the petitioner and the private respondents shall cause a physical inspection of the alleged encroachment and construction and shall submit his

report before the petitioner, private respondents and the jurisdictional Assistant Engineer, PWD.

This exercise shall be carried out and completed by the jurisdictional B.L. & L.R.O. positively within a period of **four weeks** from the date of communication of this order.

In the event such report confirms the alleged encroachment and construction on the PWD land then the jurisdictional Assistant Engineer, PWD after issuing a prior hearing notice of at least **seven days** to the petitioner and the private respondents and after giving them an opportunity of hearing shall decide the said representation dated **January 20, 2025** as referred to above by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the jurisdictional Assistant Engineer, PWD positively within a period of **six weeks** from the date of receiving report from the jurisdictional B.L. & L.R.O. The reasoned order shall be communicated to the petitioner and the private respondents positively within a 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 case of the petitioner or the private respondents and they shall be at liberty to urge whatever points they wish to urge by relying upon

whatever records and documents they wish to rely upon before the jurisdictional Assistant Engineer, PWD.

In the event, the reasoned order confirms the alleged unauthorized construction and encroachment, the jurisdictional Assistant Engineer, PWD shall communicate the order to the jurisdictional Sub-Divisional Officer positively within a period of **three weeks** from the date of the said reasoned order to be passed, who shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law positively within **four weeks** from the date of receiving the reasoned order from the Assistant Engineer, PWD.

This order shall not create any right or equity in favour of the petitioner and in favour of the private respondents, if they do not succeed to their respective claims before the jurisdictional Assistant Engineer, PWD strictly in accordance with law.

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 2014 of 2025** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)