

30 11.3.2025
Ct. no.2
Moumita

WPA 5078 OF 2025

Shiba Prasad Bhakat
Vs.
The State of West Bengal & Ors.

Mr. Shibjit Mitra
Mr. Subhasish Mitra
... For the Petitioners
Mr. Ashim Kr. Ganguly, Ld. AGP
Mr. Bellal Shaikh
... for the State-respondents

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

Mr. Shibjit Mitra, learned counsel appears for the petitioners.

Mr. Ashim Kumar Ganguly, learned Additional Government Pleader appears for the State-respondent nos. 1 to 7.

The petitioners seek permission to use a government land which is immediately adjacent to their dwelling place. Petitioners referring to the representation dated **March 3, 2024, annexure P-4 at page 20** and dated **February 17, 2025 annexure P-5 at page 23** to the writ petition submits that the same is still pending.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, this Court is also of the view that, **Section 8** of the **West Bengal Highways Act, 1964**, *inter alia*, provides for submission of an **application** in **writing** by an intending

user of a portion of the public road, if he/she is found to be eligible strictly in accordance with law.

In view of the above, the petitioners shall be at liberty to submit necessary application strictly in accordance with **Section 8** of the said **1964 Act** before the **jurisdictional Assistant Engineer, P.W.D.** within a period of **two weeks** from date.

In the event, such an application is submitted by the petitioners, the jurisdictional Assistant Engineer, P.W.D. upon issuing a prior hearing notice to the petitioners and after granting them an opportunity of hearing shall dispose of such application by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the jurisdictional Assistant Engineer, P.W.D. positively within a period of **six weeks** from the date of receiving application from the petitioners along with a copy of today's order and the reasoned order shall be communicated to the petitioners within a period of **one week** from the date of the said reasoned order to be passed.

It is made clear that, while considering the application the Assistant Engineer must satisfy itself by recording his satisfaction that the smooth movement through the road shall not be hindered in any manner, if such permission is accorded to the petitioners. Additionally the Assistant Engineer shall also take into

consideration all the relevant provisions of the **1964 Act** applicable in this case.

It is made clear that this order shall not create any right or equity in favour of the petitioners, if the petitioners do not succeed to their claims strictly in accordance with law.

In the event, the reasoned order goes in favour of the petitioners, the appropriate authority shall take all necessary and consequential steps to give an immediate effect thereto but **subject to** obtaining a valid and lawful **undertaking** from the petitioners that whenever the petitioners will be required to vacate the land by the P.W.D. authority, the petitioners shall vacate the same **unconditionally** within **72 working hours** from the written communication to be received by the petitioners from the P.W.D. authority to such effect. In such event, the petitioners shall not claim any right or equity.

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 5078 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.)