

April 22, 2025
Sl. No.12
Court No.19
s.biswas

WPA 8877 of 2025

Sahadeb Singh and others
vs.
The State of West Bengal and others

Mr. Sayat Chattopadhyay
Mr. Sourojit Dasgupta
Mr. Mahammed Reajul
Mr. Sagnik Roy Chowdhury

... for the petitioners

Mr. Chandi Charan De, AGP
Mr. Anirban Sarkar

... for the State

1. The Affidavit of service as filed on behalf of the writ petitioners is taken on record.
2. It is pertinent to mention herein that considering the urgency of the matter, leave as prayed for, was granted to the writ petitioners after dispensing with the formalities of Rule 26 of Appendix-IV of the Calcutta High Court Appellate Side Rules.
3. Mr. Chattopadhyay, learned advocate for the writ petitioners at the very outset draws attention of this court to page no.54 of the instant writ petition being a copy of the order dated 16.01.2025 as passed by SDO, Tamluk, Purba Medinipur whereby and whereunder the respondent no.8 was directed to demolish the illegal encroachment within a stipulated time and recover the cost of demolition from the encroachers and in the self-same order the said SDO who is the respondent no.4 herein, directed

the Officer-in-Charge, Chandipur Police Station to render all assistance in carrying out the said order passed under Section 10(3) of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the Act of 1964', for short).

4. In course of his submission, Mr. Chattopadhyay draws attention of this court to page nos.55 to 62 of the instant writ petition being a copy of the memo of appeal. It is submitted by Mr. Chattopadhyay that though statutory appeal has been filed before the District Magistrate and Collector, Purba Medinipur, but as yet no appeal number has been given.
5. It is further submitted by Mr. Chattopadhyay that in the meantime the writ petitioners obtained no opportunity to move the said appeal and even to pray for order of stay. It is thus submitted that in the event the order dated 16.01.2025 as passed by the respondent no.4 authority is carried out, the very purpose of filing the said appeal before the District Magistrate, Purba Medinipur would become infructuous. It is thus submitted on behalf of the writ petitioners that an appropriate order/orders may be passed in terms of the prayers as made in the instant writ petition.
6. Mr. De, learned AGP appearing for the State and its functionaries, submits before this court that the District Magistrate, Purba Medinipur to hear

out the appeal as preferred under Section 10(4) of the said Act of 1964.

7. On careful consideration of the entire materials as placed before this court and after hearing the learned advocates for the contending parties, it reveals that admittedly the writ petitioners had suffered an adverse order in a proceeding under Section 10(3) of the said Act of 1964 as passed by the respondent no.4 authority. There is a provision under Section 10 of the said Act of 1964 to prefer an appeal before the respondent no.2 challenging the order passed in a proceeding under Section 10(3) of the said Act of 1964. Sufficient materials have been placed before this court that the writ petitioners have already approach the respondent no.2 by way of filing an appeal.
8. In view of such, this court while disposing of the instant writ petition, directs the District Magistrate, Purba Medinipur i.e. the respondent no.2 herein to hear out the appeal as preferred by the writ petitioners challenging the order dated 16.01.2025 as passed by the respondent no.4 after ensuring service of notice upon all the respondents and to dispose of the said appeal within 60 working days after completion of service of notice of appeal upon all the respondents without granting any unnecessary adjournments

to either parties of the said appeal and to come to a logical conclusion of the same within the said period.

9. It is further ordered that till disposal of the said appeal, there shall be an order of stay over the order dated 16.01.2025 as passed by the respondent no.4.
10. Liberty is given to the respondent no.2 i.e. the District Magistrate and Collector, Purba Medinipur to vacate the order of stay as passed by this court in the event the appellants before him were reluctant to proceed with the appeal and make an endeavour to drag the said proceeding.
11. Liberty is given to the learned advocate on record of the petitioners to communicate the server copy of this order to the respondent no.2 forthwith.
12. The respondent no.2 is directed to act on the server copy of this order.
13. With the aforementioned observation, the instant writ petition is disposed of.
14. The parties shall act on the basis of the server copy of the order.

(Partha Sarathi Sen, J.)