

S/L 9
25.08.2025
Court. No. 19
Sourav

WPA 10480 of 2025

Joydeb Beshai & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Uday Narayan Betal

Mr. Bhaskar Hutait

Mr. Mriganka Patra

...for the petitioners.

Mr. Salil Kumar Maity

...for the respondent no. 10.

1. The affidavit-of-service as filed today on behalf of the writ petitioners is taken on record.
2. The writ petitioner and the private respondent are represented by their respective learned advocates.
3. None appears on behalf of the respondent/State and its instrumentalities despite service.
4. The subject matter of the instant writ petition is the notice dated 09.04.2025 as issued by the respondent no. 4/authority under Section 10(1) of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964', in short).
5. At the time of hearing, Mr. Betal, learned advocate appearing on behalf of the writ petitioners submits before this Court that the respondent no. 4/authority most unilaterally issued a notice under challenge under Section 10(1) of the said Act of 1964 without considering that the demarcation report as prepared by the jurisdictional Revenue Inspector of the office of the jurisdictional BL & LRO.

6. It is further submitted on behalf of the writ petitioners that prior to issuing the notice under challenge dated 09.04.2025, the respondent no. 4/authority ought to have considered that the report as prepared by the Revenue Inspector of the office of the jurisdictional BL & LRO has no value in evidence.
7. Per contra, in course of his submission, Mr. Maity, learned advocate appearing on behalf of the private respondent has handed over a photocopy of the bunch of papers containing memo dated 12.06.2025 as issued by the respondent no. 4/authority addressed to the respondent no. 5/authority.
8. It is submitted that from the report dated 21.03.2025 as prepared by the Revenue Inspector of the office of the jurisdictional BL & LRO, it would reveal that the writ petitioners have not only encroached the P.W.D. land but also caused obstruction as to the free ingress and egress of the private respondents to their property.
9. It is submitted further that the aforementioned notice under challenge has been rightly issued by the respondent no. 4/authority pursuant to the order dated 04.12.2024 as passed in WPA 25671 of 2024 by a co-ordinate Bench of this Court.
10. 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 pursuant to the aforementioned order dated 04.12.2024 as passed by a co-ordinate Bench of this Court, the jurisdictional BL & LRO submitted its report based on the

report of the Revenue Inspector with the respondent no. 4/authority and respondent no. 4/authority on receipt of such notice found sufficient justification in the report of the jurisdictional BL & LRO and thus issued a notice under Section 10(1) of the said Act of 1964 for removal of the encroachment.

11. It further reveals from the said notice under challenge that the respondent no. 4/authority has also indicated that in the event, the writ petitioners do not remove the encroachment, appropriate proceeding will be started against them.
12. Materials have been placed before this Court that on 12.06.2025, the respondent no. 4/authority has issued notice under Section 10(2) of the said Act of 1964.
13. It thus appears to this Court that the respondent no. 4/authority has issued the notice under challenge absolutely in accordance with law and further in accordance with the direction of the co-ordinate Bench as passed on 04.12.2024 in WPA 25671 of 2024.
14. It further appears to this Court that the writ petitioners are not still remediless and they are entitled to put their defence in a proceeding under Section 10(3) of the said Act of 1964 before the respondent no. 5/authority.
15. In view of such availability of the alternative remedy and in absence of any perversity in the notice under challenge dated 09.04.2025 as well as since the subsequent notice dated 12.06.2025 has already been issued under Section 10(2) of the West Bengal Highways Act, 1964, this Court finds no merit in the instant writ petition.

16. With the aforementioned observations, the instant writ petition being **WPA 10480 of 2025** is hereby dismissed.
17. Before parting with, it is, however, made clear that the observations as made hereinabove is purely limited for the disposal of the instant writ petition and the respondent no. 5/authority is hereby directed not to persuade himself any of the observation made hereinabove at the time of the disposal of the proceeding(s) under Section 10(3) of the West Bengal Highways Act, 1964 which is/are, however, to be concluded within 60 working days from the date of communication of the server copy of this order.
18. Liberty is given to the learned advocate on record for the private respondent to communicate the server copy of this order to the respondent no. 5/authority.
19. The respondent no. 5/authority is directed to act on the server copy of this order.
20. It is further made clear that in the proceeding(s) under Section 10(3) of the West Bengal Highways Act, 1964, all points are kept open.
21. 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.)