

June 18, 2025
Sl. No.14
Court No.19
s.biswas

WPA 11523 of 2025

Kartick Maji and others

vs.

The State of West Bengal and others

Mr. Saptansu Basu, Sr. Adv.

Mr. Keshab Chandra Das

Ms. Aparajita Mondal

Mr. Biplab Adak

... for the petitioners

Mr. Lalit Mohan Mahata

Mr. Ziaul Hazra

... for

1. The affidavit of service as filed today on behalf of the petitioners and the supplementary affidavit as filed on behalf of the petitioners are taken on record.
2. By filing the instant writ petition, the writ petitioners pray for issuance of appropriate writ/writs against the respondent authorities; more specifically against the respondent no.2 authority for cancellation and/or setting aside the order dated 28.04.2025 as passed in Appeal Case No.02 of 2024 in a proceeding under Section 10(4) of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964' for short).
3. At the time of hearing, Mr. Basu, learned Senior Advocate appearing on behalf of the writ petitioners at the very outset draws attention of this court to the copy of the order dated 28.04.2025 as passed by the respondent no.2 authority in the said appeal. It is submitted by

Mr. Basu that from page 54 of the instant writ petition, it would reveal that the jurisdictional BDO wrote a letter dated 27.01.2025 to the respondent no.5 authority for holding a joint inspection on 06.02.2025, a copy of which was sent to the jurisdictional Special Land Acquisition Officer requesting him to send one surveyor of his office with LA map for the said purpose.

4. It is submitted by Mr. Basu that while passing the order under challenge dated 28.04.2025 as passed in the aforementioned appeal by the respondent no.2 authority, the respondent no.2 authority has failed to visualize that the respondent no.6 authority in a proceeding under Section 10(3) of the said Act of 1964 did not at all consider the said LA map while holding that the present writ petitioners are unlawful encroachers.
5. It is thus submitted by Mr. Basu that for non-consideration of relevant material, the decision making process of the respondent no.2 authority is vitiated.
6. It is further submitted by Mr. Basu that while holding such inspection no notice was served upon the writ petitioners and thus principles of natural justice has not been followed.
7. Such contention is disputed by the learned advocate appearing for the respondent State. It is submitted on behalf of the State that from page

no.48 of the instant writ petition being a copy of the order dated 24.07.2024 as passed by the respondent no.6 authority, it would reveal that the respondent no.6 authority while disposing of the case under Section 10(3) of the said Act of 1964 duly considered the demarcation report of the jurisdictional BL&LRO and came to a logical conclusion that the writ petitioners are unlawful encroachers and that in such order the admission regarding such unlawful encroachment on the part of the writ petitioners have been duly recorded.

8. It is further submitted on behalf of the State that while passing the order dated 28.04.2025 in a proceeding under Section 10(4) of the said Act of 1964, the respondent no.2 authority duly considered the said factual finding and thus, there cannot be any occasion to interfere with the order under challenge in a judicial review.
9. On careful consideration of the entire materials as placed before this court and after hearing the learned advocates appearing for the contending parties, it appears to this court that while passing the order dated 28.04.2025 the respondent no.2 had duly considered the order dated 24.07.2024 as passed by the respondent no.6 authority in a proceeding under Section 10(3) of the said Act of 1964.

10. Though it has been strongly contended on behalf of the writ petitioner that both the orders dated 28.04.2025 as passed by the respondent no.2 authority and the order dated 24.07.2024 as passed by the respondent no.6 authority are perverse and unjust for non-consideration of the relevant materials, this court finds no force in such submission inasmuch as while passing the order dated 24.07.2024 by the respondent no.6 authority in a proceeding under Section 10(3) of the said Act of 1964, the respondent no.6 authority had duly considered the demarcation report of the jurisdictional BL&LRO. Therefore, by no stretch of imagination it can be said that the finding of the respondent no.6 authority is vitiated for consideration of some extraneous materials and/or non-consideration of the relevant materials which are on record.

11. On careful consideration of the order as passed in appeal by the respondent no.2 on 28.04.2025, it reveals to this court that the respondent no.2 authority did not interfere with the factual finding of the respondent no.6 authority as recorded on 24.07.2024.

12. In further considered view of this court in order to arrive at a logical conclusion in respect of a proceeding under Section 10(3) and/or 10(4) of the said Act of 1964, there cannot any necessity

to consider LA map especially when the jurisdictional BL&LRO has submitted a demarcation report.

13. This court thus finds that the writ petitioners have miserably failed to make out a case to interfere with the order under challenge dated 28.04.2025 in a judicial review.

14. The instant writ petition is dismissed.

15. There shall be no order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)