

S/L 10
19.05.2025
Court. No. 19
Sourav

WPA 14194 of 2024

**Bibekananda Biswas & Ors.
Vs.
The State of West Bengal & Ors.**

*Mr. Kaushik Dey
Mr. Abhijit Sarkar
Mr. Abhik Chitta Kundu*

...for the petitioners.

*Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal*

...for the State.

1. The affidavit-of-service as filed today is taken on record.
2. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent no. 2/authority for quashing of its order dated 15.04.2024 whereby and whereunder the respondent no. 2/authority declined to consider the writ petitioners' representation favourably for taking appropriate steps for acquisition of the portion of the land and for disbursement of adequate compensation on account of user of the said land of the writ petitioners as a public road.
3. In course of his submission, Mr. Dey, learned advocate appearing on behalf of the writ petitioners at the very outset submits before this Court that it is the grievance of the writ petitioners that on account of construction and/or widening of PMGSY road, 14 decimals of land out of 23 decimals in C.S. Dag No. 2507 and R.S. Dag No. 2176 in Mouza – Chhaighariya, P.S. Petrapole, North 24 Parganas was used by the respondents/authorities without initiating

any acquisition process and, therefore, no compensation was paid to the writ petitioners.

4. Drawing attention to Page Nos. 76 to 90, it is submitted that despite submission of several representations, the respondents/authorities sat tight over the matter though from the memo dated 26.08.2022 (at page no. 91 of the instant writ petition), it would reveal that the aforementioned plot of land was not found involved in any land acquisition case as has been informed by the Special Land Acquisition Officer, North 24 Parganas, Barasat to the writ petitioner no. 1.
5. Since the writ petitioners' representation was not considered favourably, the writ petitioners approached a co-ordinate Bench of this Court by filing WPA 13652 of 2023 which came to be disposed of by the said co-ordinate Bench by its judgment and order dated 08.12.2023 directing the present respondent no. 2 to consider the representation of the writ petitioners in accordance with law.
6. At this juncture, Mr. Dey took me to page no. 95 to page no. 103 of the instant writ petition, being copies of several orders as passed by the respondent no. 2 pursuant to the judgment and order dated 08.12.2023 in connection with aforementioned writ petition. It is submitted by Mr. Dey that from page no. 99 of the instant writ petition, it would reveal that on 15.04.2024, the respondent no. 2/authority clearly observed that the writ petitioners' aforementioned portion of land was not found in land acquisition case and considering the submission of the Executive Engineer, West

Bengal State Rural Development Authority ('WBSRDA', in short), the respondent no. 2/authority had given a liberty to the said Executive Engineer to produce documents regarding consent of the land owners.

7. At this juncture, Mr. Dey again draws attention of this Court to the order under challenge dated 23.04.2024 as available at page nos. 102 and 103 of the instant writ petition. It is submitted that while passing the said order under challenge, the respondent no. 2 though noticed that the said Executive Engineer failed to produce any document regarding consent of the writ petitioners, however, the respondent no. 2 more surprisingly came to a finding that since the writ petitioners did not raise any objection with regard to the construction of the road which according to him was constructed 30 to 45 years back, the writ petitioners are not entitled to any compensation since according to him, under the Scheme for construction and/or widening of PMGSY road, there is no scope for land acquisition.
8. It is thus submitted by Mr. Dey that from the order under challenge, it would reveal that the respondent no. 2 clearly admitted that a substantial portion of the writ petitioners' land has been used for construction and/or widening of PMGSY road but for the reasons best known to him, he all on a sudden came to finds that the writ petitioners are not entitled to any compensation as prayed for.
9. Per contra, Mr. Bandyopadhyay, learned Senior Government Advocate appearing on behalf of the respondent/State submits before this Court that for

effective adjudication of the instant writ petition, WBSRDA ought to have been made party. It is further submitted that from the order under challenge, it would reveal that the aforementioned road has been constructed long back and further, the respondent no. 2/authority came to a factual finding that at the time of construction and/or widening of PMGSY road, the writ petitioners raised no objection and further, the respondent no. 2 further noticed that under PMGSY Guideline/Scheme, there is no scope and/or provision for acquisition of land for construction or widening of road.

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 it is undisputed that for the purpose of construction and/or widening of PMGSY road, a substantial portion of the land of the writ petitioners was utilized since it is the specific finding of the respondent no. 2 that the relevant plot is still recorded as 'Bastu' in the name of the writ petitioners though on physical verification it is found to be a 'Rasta' (road).
11. As rightly pointed out by Mr. Dey that while passing the order dated 15.04.2024, the respondent o. 2/authority granted liberty to the Executive Engineer, WBSRDA to produce necessary document regarding the consent of the present writ petitioners but from the order under challenge dated 23.04.2024, it would reveal that such consent document alleged to be executed by the writ petitioners had not been placed before him and on the contrary, the

respondent no. 2 took shelter under the PMGSY Guideline/Scheme holding that since under the said Guideline/Scheme, there is no scope for land acquisition and since the writ petitioners raised no objection with the appropriate authorities that they are not entitled to any compensation as prayed for.

12. This Court considers that the reasons assigned by the respondent no. 2 while passing the order dated 23.04.2024 is totally unacceptable in view of the fact that in course of hearing, Mr. Dey has placed several documents to substantiate that the writ petitioners were constantly approaching the respondents/authorities for taking appropriate steps for acquisition of the land which has been utilized for construction of the road and for payment of consideration. Materials have been placed before this Court that finding no other alternative, the writ petitioners had to approach the High Court by filing WPA 13652 of 2023.
13. The respondent/State being a welfare State is not expected to deprive its citizen from the land which belongs to him without taking any recourse to acquire the same in accordance with law and to pay just compensation to its citizens and such action in considered view of this Court is violative of the Constitutional provision as enshrined in Article 300A of the Constitution of India.
14. In view of such, this Court finds sufficient merit in the instant writ petition.
15. Accordingly, the instant writ petition is allowed.
16. Consequently, the order dated 23.04.2024 as passed by the respondent no. 2/authority is hereby set aside.

17. Consequently, the respondent no. 3/authority being the Land Acquisition Collector, North 24 Parganas is hereby directed to initiate land acquisition process in respect of the utilized land of the writ petitioners' in accordance with the provision of Act 30 of 2013 and after determining the quantum of award, shall disburse adequate compensation to the writ petitioners.
18. The entire exercise as indicated hereinabove is to be completed within 180 working days from the date of communication of the server copy of this order.
19. Liberty is given to the learned advocate on record of the writ petitioners to communicate the server copy of this order to the respondent nos. 2 and 3/authorities forthwith.
20. The respondent nos. 2 and 3 are directed to act on the server copy of this order.
21. With the aforementioned observations, the instant writ petition being **WPA 14194 of 2024** is disposed of.
22. 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.)