

10.03.2025
Item No. 44
Ct. No. 15
AN

WPA 15665 of 2024
Sakti Pada Manna
vs.
The State of West Bengal & ors.

Mr. Debabrata Ray
Mr. Gazi F. Hussain
Mr. Soumik Mondal
Ms. Varsha Ray
Ms. Sarbani Mukhopadhyay
... for the petitioner

Mr. Alok Kumar Ghosh
Mr. Keshab Chandra Das
Mr. Biplab Adak
... for the Municipality

The petitioner challenges a notice dated June 3, 2024, issued by the Chairman of Tarakeswar Municipality. By the said notice, the Chairman directed the petitioner to demolish the unauthorised earth filling, guard wall, and concrete road construction on L.R. Plot No. 822 (R.S. Plot No. 499) at Mouza Tarakeswar (J.L. No. 29), Joykrishnabazar, Ward No. 11, within the jurisdiction of the Tarakeswar Municipality.

Learned counsel for the petitioner submits that the notice is without jurisdiction, as a pathway does not constitute a “building” under the West Bengal Municipal Act, 1993. Therefore, the Chairman lacks the authority to issue such a notice.

Conversely, learned counsel for the Municipality argues that Plot No. 822 is classified as a water body.

The Block Land & Land Reforms Officer of Tarakeswar, Hooghly, issued a notice on February 15, 2022, under Section 4C(5) of the West Bengal Land Reforms Act, 1955, requiring the petitioner to restore the water body. The Chairman, in issuing the impugned notice, merely directed the petitioner to comply with the order of the Block Land & Land Reforms Officer, Tarakeswar, Hooghly.

Upon consideration, I find that the notice dated June 3, 2024, is, as the petitioner contends, issued without jurisdiction. The Chairman of Tarakeswar Municipality is not empowered to administer the provisions of the West Bengal Land Reforms Act, 1955. It was the responsibility of the Block Land & Land Reforms Officer, Tarakeswar, Hooghly, to take the necessary actions under Section 4C(5) of the West Bengal Land Reforms Act, 1955, against the petitioner. Accordingly, the Chairman of the Municipality should not have issued the impugned notice.

Similarly, if a water body has been filled, it is within the jurisdiction of the competent authority under the West Bengal Inland Fisheries Act, 1984, to take appropriate actions in accordance with that statute.

In light of the above, this writ petition is disposed of by setting aside the notice dated June 3, 2024, as appearing at page 26 of the writ petition. This order, however, does not preclude the competent authority

under the West Bengal Inland Fisheries Act, 1984, from taking the necessary steps as per the law.

Learned counsel for the petitioner has also contended that after the issuance of the notice on June 3, 2024, officials and employees of the Tarakeswar Municipality on June 13, 2024, dismantled the pathway constructed by the petitioner. It is argued that appropriate directions should be issued to the Tarakeswar Municipality to restore the pathway.

On the other hand, learned counsel for the Municipality has drawn the Court's attention to paragraph 3 of the report filed by the Municipality, which indicates that the Municipality has not taken any action to implement the notice dated June 3, 2024.

While this remains a disputed fact, which the Court cannot decide, it is not denied by the petitioner that a notice under Section 4C(5) of the West Bengal Land Reforms Act, 1955, has already been issued against the petitioner. As such, I am not inclined to issue any directions to the Chairman of Tarakeswar Municipality for the restoration of the pathway.

Accordingly, **WPA 15665 of 2024** is disposed of.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Kausik Chanda, J.)