

N.22Sl
151/CL

WPA 17852 of 2025

18.09.2025
SL-16
Ct.19
(S.R.)

Nirmal Bain
-vs-
The State of West Bengal & Ors.

Mr. Abhijit Mondal
Mrs. Puja Goswami ... for the petitioner.

Mr. Supratim Dhar, Sr. Adv.
Mr. Ayan Banerjee ... for the State.

1. The subject matter of the instant writ petition is the order dated 23.07.2025 as passed by the respondent no.3/authority in a proceeding under Section 10(3) of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act', in short).
2. By the order under challenge, the respondent no.3/authority directed the respondent no.5/authority to remove encroachment within fifteen days from the date of passing of the said order.
3. Learned advocate appearing on behalf of the writ petitioner submits before this Court that the order under challenge is required to be interfered with basically on two grounds, namely, the statutory period for filing an appeal before the District Magistrate is ninety days and, thus, the respondent no.3/authority ought to have considered the same

and that, the respondent no.3/authority did not give any opportunity of hearing to the present writ petitioner and, thus, the principle of natural justice has not been followed.

4. Such contention is vehemently opposed by Mr. Banerjee, learned advocate appearing for the respondent/State by saying that despite service of notice at least for three occasions, the writ petitioner had chosen not to appear.
5. In considered view of this Court, the instant writ petition is not at all maintainable in view of the availability of alternative statutory remedy to the writ petitioner under Section 10(4) of the said Act.
6. No case has been made out on behalf of the writ petitioner that despite availability of the alternative statutory remedy, the high prerogative writ jurisdiction is required to be invoked. In absence of any material to substantiate that the authority, who passed the order impugned, has no authority to pass such order and as rightly pointed by Mr. Banerjee that despite service of notice, the writ petitioner have chosen not to appear before the respondent no.3/authority, this Court must refrain itself to invoke the discretionary writ jurisdiction under Article 226 of the instant writ petition in favour of the writ petitioner.
7. With the aforementioned observations, WPA 17852

of 2025 is dismissed.

8. There shall, however, be no order as to costs.
9. 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.)