

S/L 11
28.08.2025
Court. No. 19
Suwayan

WPA 18229 of 2025

**Pranab Maity & Ors.
Vs.
The State of West Bengal & Ors.**

*Mr. Ashim Kumar Routh
Mr. Subhayan Barik
Ms. Manishka Dhar*

...for the petitioners.

*Mr. Supratim Dhar, Sr. Adv.
Mr. Santimay Bhattacharyya*

...for the State.

*Mr. Tanmay Basu
Mr. Debdip Mandal*

...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, the respondents/State and its instrumentalities and the private respondents are represented by their respective Counsels.
3. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no. 2/authority for quashing of the order dated 22.04.2025 as passed in Appeal no. 10/Eviction/HW/District Magistrate/S-24 Parganas of 2024-2025 (Pranab Maity & Ors. vs. The Sub-Divisional Magistrate, Kakdwip, South 24 Parganas & Ors.) whereby and whereunder in a proceeding under Section 10(4) of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act' in short) the respondent no. 2/authority dismissed the appeal as preferred by the writ petitioners. It is pertinent to

mention herein that the writ petitioners preferred the said appeal challenging the order dated 06.08.2024 as passed by the respondent no. 7/authority.

4. On careful perusal of the two orders dated 12.09.2024 and 06.03.2025 as passed in WPA 20204 of 2024 by two separate co-ordinate Benches of this Court it reveals that in the said writ petition as filed by the present writ petitioners the subject matter of challenge was the order dated 06.08.2024 as passed by the respondent no. 7/authority which was stayed till April 30, 2025. It reveals that despite such stay the respondent no. 2/authority disposed of the appeal as preferred by the appellants who are the writ petitioners before this Court on 22.04.2025 ignoring the order of stay as passed in connection with WPA 20204 of 2024 which have been annexed at page nos. 93 to 95 of the instant writ petition.

5. At this juncture, Mr. Routh, learned Advocate appearing on behalf of the writ petitioners draws attention of this Court to page no. 117 to 123 of the instant writ petition being a copy of the order dated 05.05.2025 as passed by this Court in WPA 20204 of 2024 whereby and whereunder this Court while disposing the said writ petition directed the present writ petitioners and the private respondents to participate in the proceeding under Section 10(3) of the said Act on a particular day. On being asked by this Court Mr. Routh submits before this Court that on the day of hearing of WPA 20204 of 2024 that is on

05.05.2025 the present writ petitioners were not aware of the order under challenge dated 22.04.2025 since the same was communicated to the writ petitioners on 15.07.2025 under cover of a memo which has been annexed at page no. 111 of the instant writ petition.

6. It is thus submitted by Mr. Routh that when this Court permitted the writ petitioners and the private respondents to approach the respondent no. 7/authority for adjudication of the proceeding under Section 10(3) under the said Act the impugned order under challenge dated 22.04.2025 as passed by the respondent no. 2/authority as per the provisions of Section 10(4) of the said Act cannot be allowed to stand. It is further submitted by Mr. Routh that pursuant to the direction passed by this Court on 05.05.2025 in WPA 20204 of 2024 both the writ petitioners and the private respondents have already appeared before the respondent no. 7 for participating in the proceeding under Section 10(3) of the said Act and before the respondent no. 7/authority hearing under provisions of Section 10(3) of the said Act has already been concluded but no final order has been passed.
7. Such contention is, however, not opposed by the learned Advocate on behalf of the private respondents.
8. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties and also considering the chronology of events as discussed in

the foregoing paragraphs, this Court considers that the instant writ petition deserves to be allowed for the following two reasons:-

- (i) The order dated 22.04.2025 was passed by the respondent no. 2/authority in an appeal under Section 10(4) of the said Act when the operation of the impugned order before him was stayed by this High Court in connection with WPA 20204 of 2024.
- (ii) This Court while disposing the WPA 20204 of 2024 permitted the present writ petitioners and the private respondents herein to participate in the proceeding under Section 10(3) of the said Act before the respondent no. 7/authority herein on a specified date i.e. on 15.05.2025.

9. Accordingly, the instant writ petition being WPA 18229 of 2025 is hereby allowed.

10. Consequently, the order under challenge dated 22.04.2025 as passed by the respondent no. 2/authority in Appeal no. 10/Eviction/HW/District Magistrate/S-24 Parganas of 2024-2025 is hereby set aside. It is further ordered that all consequent actions taken by the respondents/authorities including the respondent no. 6 pursuant to the aforesaid order dated 22.04.2025 are also set aside.

11. Before parting with, it is, however, made clear that the disposal of the instant writ petition in favour of the writ petitioners shall not have any effect in the proceeding

before the respondent no. 7/authority under Section 10(3) of the said Act hearing of which has been claimed to have been concluded.

12. Liberty is given to the learned Advocate-on-Record to communicate the server copy of this order to the respondent nos. 2 and 6 forthwith.
13. The respondent nos. 2 and 6/authorities are directed to act on the basis of the server copy of this order.
14. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)