

Item- 30. 19-11-2025

WPA 18390 of 2025

sg Ct. 19

Pradip Ghosh & Ors.
Versus
The State of West Bengal & Ors.

Mr. Soumyadeep Biswas
...for the petitioners
Mr. Tapan Mukherjee
Ms. Sangeeta Ray
...for the State
Md. Sarwar Jahan
Mr. Sumanta Das
Mr. Asif Mehdi
Ms. Shalini Sen
...for the respondent nos.7-10

The petitioners allege that there has been gross violation of the principles of natural justice as well as the directions passed by the coordinate Bench in the order dated December 9, 2024 in WPA 16369 of 2024. The private respondents submitted a representation before the respondent authorities alleging encroachment upon the PWD roads by the petitioners herein. Alleging inaction on the part of the respondent authorities for not taking any steps pursuant to the complaint made by the private respondents, a writ petition being WPA 16369 of 2024 was filed by the private respondents herein, which was disposed of by an order dated December 9, 2024 by directing the jurisdictional Block Land & Land Reforms Officer to cause a physical inspection of the alleged encroachment and construction upon prior notice to the respective parties and the report shall be submitted before the petitioners, private respondents and the jurisdictional Assistant Engineer, PWD Roads. Thereafter, the Assistant Engineer passed an order dated 22nd July, 2025 under Section

10(1) of the West Bengal Highways Act, 1964 directing the petitioners and the private respondents to remove their encroachments which fell on the PWD land bearing plot nos. 2106/4067 and 2109/4174 within Mouza Joyghata, J.L. no. 8, under Police Station Krishnaganj, which is recorded under Public Works Department and with a further direction to restore the portion to its original condition. Challenging such order dated 22nd July, 2025, the petitioners have approached this Court.

The learned Counsel appearing for the petitioners submits that, prior to the date of hearing before the concerned Assistant Engineer, the copies of the sketch map and other relevant materials, which were relied upon while passing the order dated 22nd July, 2025, have not been supplied to the petitioners. The learned Advocate appearing for the petitioners submits that the petitioners could not effectively defend themselves without the sketch map and the report of the Revenue Inspector.

The learned Advocate appearing for the private respondents submits that after the order was passed by the Assistant Engineer under Section 10(1) of the 1964 Act, the matter is now pending before Sub-Divisional Magistrate, Sadar Krishnanagar, Nadia and the hearing was concluded yesterday (18th November, 2025). He submits that at this stage, the order passed by the Assistant Engineer should not be interfered with.

Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader, submits that the sketch map was forwarded to the petitioners and the private respondents and

they participated in the hearing before the Assistant Engineer and made their respective submissions. He further submits that the Assistant Engineer, after considering the materials on record and the submissions of the respective parties, passed an order after holding that there has been an encroachment upon the PWD road.

Heard the learned Advocates for the parties and perused the materials placed. After going through the order of the Assistant Engineer dated 22nd July, 2025, it appears that the inspection report with the sketch map and the supporting record of rights placed by the Block Land & Land Reforms Officer, Krishnaganj, Nadia and Revenue Inspector, Joyghata, were considered by the Assistant Engineer while passing the said order. The order dated 22nd July, 2025 was passed pursuant to an order dated 9th December, 2024 passed by a coordinate Bench in WPA 16369 of 2024.

It is not in dispute that the parties were heard by the Assistant Engineer, but the question is whether an effective opportunity of hearing was provided to the respective parties. The learned Advocate for the petitioners would contend that the petitioners could not defend themselves effectively as the documents which were taken into consideration by the Assistant Engineer were not supplied to the petitioners.

The learned Advocate for the petitioners submits that such documents were not forwarded to the petitioners whereas Mr. Mukherjee submits that all the relied upon documents were duly forwarded to the petitioners.

However, without entering into such disputed questions of fact, this Court feels that the petitioners should

be given the benefit of doubt and the authorities should be directed to decide the issue of encroachment after supplying the papers and documents, which were taken into consideration by the Assistant Engineer while passing the order dated 22nd July, 2025, to the petitioners.

Mr. Mukherjee files a report of the Assistant Engineer, Krishnagar Highway Sub-Division, P.W.(Roads) Directorate dated 22nd August, 2025, which is taken on record.

From the bunch of documents annexed to the said report, this Court finds that notice bearing Memo No. 434/1(4)/BL&LRO/KNJ/2025 dated 20th May, 2025; the Memo dated 11th June, 2025 issued by the Assistant Director, WBLRS and Block Land & Land Reforms Officer, Krishnaganj, Nadia; the report of the Revenue Inspector, Joyghata, R.I. Office, Krishnaganj, Nadia dated 10th June, 2025 and the sketch map signed by the Revenue Inspector and the Assistant Director, WBLRS and Block Land & Land Reforms Officer, Krishnaganj, Nadia and the Hazira filed by the respective parties have been appended to the said report.

The documents which were relied upon by the authority in the order dated 22nd August, 2025 are appended to the said report.

Mr. Mukherjee, learned Additional Government Pleader is requested to supply a copy of the said report along with the bunch of the aforesaid documents being notice dated 20th May, 2025, memo dated 10th July, 2025, report of the R.I. dated 10th July, 2025 and the sketch map signed by the Revenue Inspector and the Assistant Director and Block Land

& Land Reforms Officer and the Hazira to the learned Advocate of the petitioners in course of this day.

Since it has been alleged by the petitioners that the petitioners could not effectively defend themselves at the time of hearing before the Assistant Engineer, this Court is of the considered view, that a further opportunity of hearing should be provided to the parties and the petitioners should be given an opportunity to deal with the documents/records/plan etc. which were relied upon.

In view thereof, the order dated 22nd July, 2025 and all consequential steps taken pursuant to the said order are set aside and quashed.

The petitioners and the private respondents are permitted to contest the proceedings before the concerned Assistant Engineer from the stage of filing the reply to the aforesaid documents.

Let reply to the documents supplied by Mr. Mukherjee in Court today be submitted by the petitioners on or before November 26, 2025 before the Assistant Engineer, P.W.D. Roads, Krishnanagar Highway Division-II, being the fourth respondent herein.

The Assistant Engineer, P.W.D. Roads, being the fourth respondent, is directed to decide the issue of encroachment afresh after fixing date of hearing after 26th November, 2025 and to conclude the hearing on or before 2nd December, 2025 after giving an opportunity of hearing to the respective parties and by passing a reasoned order.

Mr. Mukherjee suggests that the Court may fix a date and time for hearing before the Assistant Engineer.

As suggested by Mr. Mukherjee, learned Additional Government Pleader, the date and time of hearing before the Assistant Engineer, P.W.D. Roads, Krishnanagar Highway Division-II, being the fourth respondent, is, hereby, fixed on December 1, 2025 at about 12 noon.

Since the date and time of hearing is fixed by this Court in the presence of the learned Advocates for the respective parties, there will be no necessity to serve any further notice of hearing by the said respondents upon the respective parties.

The reasoned order shall be communicated to the respective parties within a period of seven days from the date of passing of such order.

With the above observations and directions, WPA 18390 of 2025 stands disposed of.

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

(Hiranmay Bhattacharyya, J.)