

19.09.2025
SL No.12
Court No.24
Ali

WPA 20705 of 2022

**Nurul Islam Sk. @ Bakul Sk. & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Balailal Sahoo,
Md. Kutubuddin

..... for the petitioners.

Mr. Soumitra Bandopadhyay,
Mr. subhasis Bandopadhyay

.... for the State.

Mr. Prosenjit Mukherjee,
Ms. Tiya Ghosh,
Mr. Raja Roy

.....for the private respond No. 7.

1. State is represented through learned counsels
Mr. Soumitra Bandopadhyay with Mr. Subhasis
Bandopadhyay.
2. Private respondent is represented through
learned counsel Mr. Prosenjit Mukherjee.
3. It appears that the instant writ petition was
preferred challenging a notice under Sub-
Section 3 of Section 10 of West Bengal
Highways Act, 1964 issued by sub-Divisional
Officer, Rampurhat, Birbhum.
4. During the course of the proceeding of the
instant writ petition, State authority was
directed to submit a report.

5. In terms of such direction, report is placed on record.
6. Perused the report.
7. It has been reported that the proceeding initiated after service of the impugned notice has already been concluded by passing an order by the competent authority under Section 10(3) of the West Bengal Highways Act, 1964.
8. It further appears that challenged of impugned notice herein became infructuous by efflux of time when the entire proceeding has disposed of by passing final order.
9. Learned counsel for the petitioners fairly submits that as an order has been passed by the concerned authority under Section 10(3) of the West Bengal Highways Act, 1964. The petitioners may be given an opportunity to challenge the order according to law.
10. Having heard the learned counsels for the parties also considering the fact it appears that Section 10 Sub-Section 3 has given Magistrate a power to pass an order for removal of encroachment which is appealable under Sub Section 4 of Section 10 of the said Act, 1964. For better appreciation of legal aspects, Sub Section 4 of Section 10 of the said Act be set out as hereunder-

“Section 10 (4) If the person responsible for the encroachment is aggrieved by the order of the Magistrate made under sub-section (3) he may, within fifteen days from the date of the Magistrate’s order, appeal to the District Magistrate. The District Magistrate shall, after hearing the parties, make an order affirming, modifying or setting aside the order made under sub-section (3)”.

11. It appears that the instant writ petition which was challenged the notice under Section 10(3) of the said Act, 1964, the same proceeding has already been disposed of; hence this instant writ petition is hereby disposed of as infructuous.
12. However, the petitioners are at liberty to challenge the order passed under Section 10(3) of the said Act according to the provisions of Section 10(4) of the West Bengal Highways Act, 1964 before the appropriate authority. As the petitioner has proceeded before this writ under misconception of law, the petitioners may prefer the appeal according to the provisions under Section 10(4) of Act 1964, subject to the fact that he must prefer the appeal within the month of October 2025; if the petitioners prefer the appeal within the time specified, period of limitation, in preferring the said appeal shall be

condoned according to the provisions of Section 14 of the Limitation Act.

13. Under the above observations, the instant writ petition being WPA 20705 of 2022 is disposed of.
14. The learned appellate authority shall dispose of the appeal within eight weeks after filing of the same and shall pass the order according to the law after hearing all concerned parties including private respondent herein.
15. Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)