

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

05.02.2025
Ct. no. 2
Sl. No. 5
Moumita

WPA 20606 of 2023

Pratima Naskar

Vs.

The State of West Bengal & Ors.

**Mr. Soumitra Banerjee
Md. Giasuddin Mulla**

.... For the Petitioner

**Mr. Santanu Kumar Mitra, Ld. Senior Adv.
Mr. Amartya Pal**

**....For the State respondent
nos. 1 to 6, 8 and 11**

This is a hearing matter upon exchange of report an exception thereto.

Pursuant to the direction of this court dated ***December 5, 2024***, the petitioner files its exception in the form of affidavit affirmed on ***January 15, 2025***, the same is taken on record.

Mr. Soumitra Banerjee, learned Advocate appears for the petitioner.

Mr. Santanu Kumar Mitra, learned Senior Advocate appears for State respondent nos. 1 to 6, 8 and 11.

This is the second round of writ litigation touching the same plot of land.

An encroachment of a public land was alleged against the petitioner. The petitioner also counter alleged that the Panchayat authority has constructed a

passenger waiting shed during pendency of the necessary objection certificate though on the public land and not on the land of the petitioner but resisting free egress and ingress of the petitioner at its property. The previous writ petition was disposed of by a co-ordinate bench by its order dated **November 3, 2022, Annexure p-4 at page 31** to the writ petition, directing the authority to consider the issue in the manner and mode as directed therein.

Pursuant to the said direction of the co-ordinate bench dated **November 3, 2022**, after granting an opportunity of hearing to the petitioner and the private respondent no. 10 herein orders were passed dated **November 16, 2022, November 28, 2022, February 23, 2023 and May 24, 2023, Annexure p-7 at page 37 to 48** to the writ petition, the writ petitioner has impugned the reasoned orders through this writ petition. The reasoned orders show that the parties including the petitioner and the private respondent were heard. Joint enquiry was held at the locate by the **Jurisdictional B.L. & L.R.O.** The report prepared by the **B.L. & L.R.O.** clearly shows that there was an encroachment of public land by the petitioner and also a passenger waiting shed was in the process of construction by the concerned Panchayat on a land which admittedly is not the land of the petitioner but the land of the State, a public land.

The writ petition, the report filed by the state and the exception thereto filed by the petitioner do not show

or establish that the public land waiting shed was constructed upon encroaching petitioner's land or any portion of it. The petitioner could not establish unimpeachably that the right of way of the petitioner is resisted in such a manner that the egress and ingress to the petitioner's property is infringed due to construction of the public waiting shed. The allegation of the petitioner was also that while relevant no objection was pending before the Panchayat authority, the public waiting shed was constructed.

After considering the rival contentions of the parties and upon perusal the materials on records, this court is convinced that, the public waiting shed has not been constructed upon encroaching petitioner's land or any portion thereof. The joint inspection report shows that the said public waiting shed has been constructed on a public land for the public purpose at large. The impugned orders are otherwise well-versed, well-defined and were passed on the basis of the available materials on records which were not challenged at any point of time by the petitioner. The petitioner and private respondent were heard before passing the impugned orders. The petitioner and private respondents were present while the physical inspection was carried out at the sight. Therefore, there is ***no infirmity*** in the reasoned order passed by the respondent no. 5 and this court ***does not interfere*** with the same. The impugned orders stands ***affirmed***.

In the event, any encroachment is found to have been done by the petitioner on any portion of the public way, the appropriate state authorities shall take steps for removal of such encroachment forthwith and positively but strictly in accordance with law.

In view of the foregoing reasons and discussions this court is of the firm view that, this writ petition is totally devoid of any merit.

Accordingly, this writ petition **WPA 20606 of 2023** stands ***dismissed***, without any order as to costs.

(Aniruddha Roy, J.)