

20.02.2025
Item No.11
PG/KS
Ct. No.1

W.P.A.(P) 379 of 2024
Sk. Saiful Rahim
Versus
The State of West Bengal & ors.

Mr. Soumyen Dutta
Mr. Pinaki Brata Ghosh
Mr. Koushik Karmakar.....for the petitioner

Mr. Tapan Mukherjee, Sr. Adv.
Ms. Sangeeta Roy.....for the State

Mr. Subhasis Bandyopadhyay.....for the respondents
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Mr. Mrinal Kanti Ghosh
Mr. Chandra Nath Sarkar.....for the respondent no. 9

1. This public interest litigation has been filed praying for issuance of a writ of declaration to declare the construction of a water body in L.R. Dag No. 1636 (R.S. Dag No. 851) namely Laskar Dighi in Mouza-Radhanagar, J.L. No.-39, Police Station-Burdwan, District-Burdwan (presently Purba Bardhaman) under Ward No. 31 under the Burdwan Municipality as illegal and no construction can be done by filling up a water body.
2. Learned advocate appearing for the respondents/State submitted that there is an order of conversion, which has been passed by the competent authority and it is only thereafter building plan permission was granted and construction has been put up.
3. Therefore, as long as the order of conversion has not been set aside, the question of issuing a writ of

declaration, as prayed for, would not arise. However, the petitioner is not without a remedy as under the provisions of the relevant statute, any person aggrieved by an order of conversion can always file an appeal, as provided under the statute.

4. Therefore, we dispose of the writ petition by granting liberty to the petitioner to challenge the order of conversion before the appellate authority and if such appeal is filed, the appellate authority shall entertain the appeal, issue notice to all concerned and proceed to take a decision on merits and in accordance with law and pass a reasoned order.
5. If the petitioner avails such remedy, the concerned authority shall pass necessary orders within a period of six weeks from the date on which the appeal petition is presented.
6. The BL&LRO is directed to conduct an inspection and ascertain as to whether there is any remaining extent, which has not been converted and still a water body is persisting and then appropriate orders shall be passed to preserve the said water body as such. It needs to be pointed out that this direction will apply only in cases, where no order of conversion has been passed by the competent authority in terms of the provisions of the Act.
7. With the aforesaid directions, the writ petition is disposed of.

8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)