

S/L 13
25.09.2025
Court. No. 19
Sourav

WPA 21652 of 2025

**Debnarayan Manna
Vs.
The State of West Bengal & Ors.**

*Mr. S. P. Dalapati
Mr. Pritam Choudhury
Mr. Tamal Taru Panda*

...for the petitioner.

*Mr. Shehnaz Tareq Mina
Mrs. Saswati Ghosh Roy*

...for the State.

1. The affidavit-of-service and the receipted copy of the letter dated 19.09.2025 as filed by Mr. Dalapati, learned advocate appearing on behalf of the writ petitioner are taken on record.
2. On behalf of the respondent/State, a report dated 22.09.2025 is filed and the same is also taken on record.
3. The subject matter of the instant writ petition is the notice dated 12.08.2025 as issued by the respondent no. 5/authority, a copy of which has been annexed at Page No. 20 of the instant writ petition.
4. On perusal of Page No. 20, it reveals that the notice under challenge is a notice for removal of unauthorized occupation as has been issued under Section 26(2) of the Control of National Highways (Land and Traffic) Act, 2002 (hereinafter referred to as 'the said Act' in short).
5. At the time of hearing, Mr. Dalapati, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to Page No. 19 of the instant writ petition, being a copy of the memo dated

12.08.2025 issued by the respondent no. 5/authority whereby and whereunder the writ petitioner was directed by the respondent no. 5/authority to appear before him on 19.08.2025. It is submitted by Mr. Dalapati that the respondent no. 5/authority in a haste manner and without waiting for the appearance of the writ petitioner as scheduled on 19.08.2025, on the said very day i.e., on 12.08.2025 has issued the notice under Section 26(2) of the said Act which clearly shows the violation of principle of natural justice on the part of the respondent no. 5/authority.

6. It is thus submitted by Mr. Dalapati that appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition.
7. Mr. Mina, learned advocate appearing on behalf of the respondent/State, however, submits before this Court that the writ petitioner is not entitled to any relief as prayed for.
8. It is submitted by Mr. Mina that in the event Page Nos. 19 and 20 in the instant writ petition are read conjointly, it would reveal that by the notice under challenge, the respondent no. 5/authority has practically complied with the provisions of Section 26(2) of the said Act since in course of periodical inspection, encroachment of national highway was noticed on the part of the writ petitioner and which is why by issuing the notices as have been annexed at Page Nos. 19 and 20 of the instant writ petition, the writ petitioner was directed to appear before his office on 19.08.2025.

9. It is thus submitted by Mr. Mina that no case has been made out for granting reliefs as prayed for.
10. This Court has meticulously gone through the entire materials as placed before this Court including the copies of the two notices as have been annexed at Page Nos. 19 and 20. It appears to this Court that the memo dated 12.08.2025 and the notice under challenge dated 12.08.2025 have been issued simultaneously and both the said memo and the notice under challenge categorically indicated that the writ petitioner had to appear before the respondent no. 5/authority on 19.08.2025 for justifying his stand with regard to the alleged illegal encroachment.
11. In view of such, this Court finds no reason at all to interfere with the notice under challenge dated 12.08.2025.
12. Before parting with, it is, however, made clear that the respondent no. 5/authority is directed to adhere to the provisions of Section 26(5) of the said Act before passing any order of removal, if there be any.
13. With the aforementioned observations, the instant writ petition being **WPA 21652 of 2025** is disposed of.
14. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)