

N.22Sl
151/CL

WPA 2072 of 2025

25.09.2025
JPD-01
Ct.19
(S.R.)

Suresh Mandal
-vs-
State of West Bengal & Ors.

Mr. Sourav Sen, Sr. Adv.
Ms. Subhangi Bhattacharya ... for the petitioner.

Mr. Tapan Mukherjee, AGP
Ms. Sangeeta Roy ... for the State.

1. The subject matter of the instant writ petition is the notice dated 11.09.2025 as issued by the respondent no.4/authority to the writ petitioner.
2. At the time of hearing, Mr. Sen, learned senior advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos.175 to 180 of the instant writ petition, being a copy of the judgment dated 28.07.2025, as passed by a Coordinate Bench of this Court in WPA 1468 of 2025 whereby and whereunder, the said Coordinate Bench while disposing the said writ petition directed the respondent no.4/authority therein to revisit the issue and to pass final order within a stipulated time. It is pertinent to mention herein that in course of hearing WPA 1468 of 2025, learned advocate for the writ petitioner was handed over a copy of the sketch map by the learned advocate for the State.

3. At this juncture, Mr. Sen draws attention of this Court to page nos.193 to 195 of the instant writ petition, being a copy of an application under the Right to Information Act, 2005, as submitted by the writ petitioner with the respondent no.7/authority, which was received on 07.08.2025. It is submitted by Mr. Sen that after receipt of the said application for seeking information under the Right to Information Act, 2005, the respondent no.7/authority has forwarded the said application of the writ petitioner to the PWD Department.
4. At this juncture, Mr. Sen submits that as on this day, the information, as sought for, was not supplied by the PWD Department and in the meantime the respondent no.4/authority has again issued a notice dated 11.09.2025 asking the writ petitioner to appear before him on a scheduled date.
5. It is submitted by Mr. Sen that unless the information, as sought for by the writ petitioner, is provided, the writ petitioner is not able to set up his defence before the respondent no.4/authority in an appropriate manner, since the respondent no.4/authority has already received a report dated 20.12.2024 from the respondent no.7/authority alleging encroachment over RS Plot No.215, a copy of which has been annexed at page nos.181 to 183 of the instant writ petition.

6. It is, thus, submitted by Mr. Sen that since the writ petitioner was not provided with the information, as sought for under cover of his letter dated 07.08.2025, the impugned notice dated 11.09.2025 as issued by the respondent n.4/authority may be set aside.
7. Such contention is, however, opposed by Mr. Mukherjee, learned senior advocate appearing on behalf of the respondent/State. It is submitted by Mr. Mukherjee that after receipt of the report dated 20.12.2024 from the respondent no.5/authority indicating encroachment over RS Plot No.215, the respondent no.4/authority is very much justified in issuing the notice under challenge.
8. It is further submitted by Mr. Mukherjee that the instant writ petition is premature one since by issuing the notice under challenge, the respondent no.4/authority merely directed the writ petitioner to substantiate his contention with regard to the report of the respondent no.8/authority, a copy of which has been annexed at page nos.181 to 183 of the instant writ petition.
9. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court finds sufficient justification on the part of the respondent no.4/authority in issuing the notice

under challenge dated 11.09.2025, since the respondent n.8/authority under cover of his report dated 20.12.2024 clearly indicated that in RS Plot No.215, 10 shops have encroached the said plot with tin shed structure.

10. In order to justify that the writ petitioner before this Court is not an encroacher, in considered view of this Court, the burden lies upon the writ petitioner to establish that he is not an encroacher and the report dated 20.12.2024, as submitted by the respondent no.8/authority is faulty.
11. This Court finds no reason to upset the notice under challenge dated 11.09.2025 on the plea that despite seeking information under the Right to Information Act, 2005 regarding some documents, the writ petitioner has not yet received such document from the competent authority, since in considered view of this Court for non-receipt of such information and/or any document, as called for under the Right to Information Act, 2005, the remedy lies with the writ petitioner elsewhere.
12. With the aforementioned observations, WPA 2072 of 2025 is dismissed.
13. There shall, however, be no order as to costs.
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.)