

09-03-2026

WPA 1507 of 2026

Sl. 38

BP

Ct. 19

Md. @ Mohammad Basir Ali
Versus
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
Mr. Raja Roy

...for the petitioner

Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Subhasis Bandopadhyay
Mr. S.M. Samim Ullah

...for the State

Mr. Anjan Sengupta
Ms. Mary Dutta

..for the respondent nos. 7 & 8

Mr. Susanta Pal
Ms. Sanchayita Dey

.for the respondent nos.13-15

The order of the Executive Engineer, National Highway Division-XII dated 24th July, 2025 is under challenge in this writ petition. The petitioner filed a representation dated 15th March, 2024 praying for demolition of unauthorised and illegal construction upon a portion of the National Highway being L.R. Plot No. 4576 in front of the plot of the petitioner being L.R. Plot No. 110, Khatian No. 1388, J.L. 54 within Mouza Paschim Gopalpur under Police Station Nalhati in the District of Birbhum. The Executive Engineer by the order dated 24th July, 2025 observed that the private respondents herein have not encroached upon the land of the National Highway at Plot No. 4576 and, therefore, there is no necessity to initiate a proceeding for removal of unauthorised

occupation under Sub-Section 2 of Section 26 of the Control of National Highway (Land & Traffic) Act, 2002. Being aggrieved by such order the petitioner has approached this Court.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the Executive Engineer while passing the order dated 24th July, 2025 placed reliance upon a field enquiry report dated 10th July, 2025. He submits that no notice of any demarcation of the plot in question was served upon the petitioner and the entire work of demarcation, if any, was conducted behind the back of the petitioner. He further submits that the copy of the enquiry report was also not supplied to the petitioner prior to the hearing conducted by such authority. He, therefore, submits that there has been violation of the principles of natural justice in the instant case.

The learned advocate appearing for the private respondents submits that the notice of demarcation was duly served upon the petitioner and the private respondents and the private respondents were present at the locale when the work of such demarcation was carried out. He further submits that the work of demarcation was carried out in accordance with law and the Executive Engineer after considering the materials on record rightly held that the private respondents

did not encroach upon any portion of the land of the National Highway.

The learned advocate appearing for the State submits that though a radiogram message was forwarded to the respondent nos. 5 and 6 on 30th January, 2026 but till date no instructions have supplied to the learned advocate for the State by such respondents. Such an attitude on the part of the respondent nos. 5 and 6 is not appreciated by this Court.

Heard the learned advocates for the parties and perused the materials placed.

The order dated 24th July, 2025 records that the notice regarding field enquiry on 30th June, 2025 was issued by the Block Land and Land Reforms Officer on 23rd June, 2025. The petitioner has specifically stated in paragraph 13 of the writ petition that notice of enquiry has not been served upon the petitioner. No material has been produced by the State to show that the notice regarding field enquiry to be held on 30th June, 2025 has been served upon the petitioner. That apart the learned advocate for the State also could not produce any document to show that the enquiry report was supplied to the petitioner prior to the date of hearing before the Executive Engineer, National Highway Division-XII.

Since the respondent authorities have not

supplied any material and/or instructions in this regard, this Court shall presume that the notice of demarcation was not served upon the petitioner and the report of such demarcation was also not served upon the petitioner prior to the date of hearing.

When the report of demarcation was relied upon by the said authority while arriving at a finding as to whether there was any encroachment upon the National Highway, it was incumbent upon such authority to supply a copy of such report to the persons who may be affected by any decision taken on the basis of such report. Since no material has been produced by the State to show that the notice of field enquiry was served upon the petitioner and also that the enquiry report was supplied to the petitioner prior to the date of hearing, to the mind of this Court, the principles of natural justice have been grossly violated in the case on hand. Only for such reason, this Court is inclined to interfere with the order impugned as well as the demarcation report.

For the reasons as aforesaid, the demarcation report dated 10th July, 2025 and the order dated 24th July, 2025 passed by the Executive Engineer, National Highway Division-XII are set aside. The writ petition stands allowed.

The Block Land and Land Reforms Officer,

Nalhati-I Block, Birbhum is directed to carry out the work of demarcation afresh upon prior service of notice to the petitioner, the private respondents and any other person who may be affected by such demarcation as well as the concerned authorities, prepare a report of such demarcation along with sketch map. The Block Land and Land Reforms Officer, Nalhati-I Block, Birbhum is further directed to complete the work of demarcation as expeditiously as possible but positively within a period of six weeks from the receipt of a server copy of this order. The report of demarcation along with sketch map shall be forwarded to the petitioner, the private respondents as well as the Executive Engineer, National Highway Division-XII, who shall upon receipt of such report fix a date of hearing and pass a reasoned order upon considering the materials on record including the report of demarcation etc. and after affording an opportunity of hearing to the petitioner, the private respondents and/or their authorized representative and communicate the reasoned order to the respective parties as expeditiously as possible but positively within a period of six weeks from the receipt of a copy of the report of demarcation from concerned Block Land and Land Reforms Officer.

There shall be however no order as to

costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)