

SL. 16
04.02.2026
Court No.19
BP

WPA 2277 of 2026

Basudeb Roul
-versus-
The State of West Bengal and others

Mr. Kaushik Dey
Mr. Chitrak Biswas
..for the petitioner

Mr. Jahar Lal De, Sr. Govt. Advocate
Mr. Kaustav Bhattacharya
..for the State

Mr. Manoranjan Jana
Ms. Mitali Jana
..for the private respondent no.8

Affidavit of service filed in Court today is taken on record.

The order dated January 14, 2026 passed by the District Magistrate, Paschim Medinipur in an appeal under Section 10(4) of the West Bengal Highways Act, 1964 is under challenge in this writ petition. In a writ petition at the instance of the 8th respondent a direction was passed by a Co-ordinate Bench upon the authorities to initiate a proceeding under the relevant statute. Pursuant thereto a notice under Section 10 (1) of the West Bengal Highways Act, 1964 was issued. Since the alleged encroachment was not removed within the time limit stipulated in the said notice, the matter was forwarded to the Sub-divisional Magistrate who thereafter passed an order on 22nd December, 2022 under Section 10(3) of the 1964 Act. The order passed by the Sub-Divisional

Magistrate under Section 10 (3) of the 1964 Act was challenged by the petitioner in a writ petition and pursuant to the liberty granted by the Co-ordinate Bench the petitioner preferred an appeal under Section 10(4) of the 1964 Act.

Mr. Kaushik Dey, learned advocate appearing for the petitioner submits that no date of hearing of the said appeal was initially fixed by the concerned District Magistrate which prompted the petitioner to file an application before such authority for disposing of the appeal expeditiously. He submits that initially a date of hearing was fixed by the authority on September 16, 2025 but on that date no hearing took place. He further submits that a further date of hearing was fixed on 23rd December, 2025. The petitioner submitted an application praying for an adjournment of the hearing fixed on 23rd December, 2025. He submits that the District Magistrate instead of granting an adjournment conducted the hearing on 23rd December, 2025 and passed an order on 14th January, 2026.

Mr. Jana, learned advocate appears for the private respondent no.8. He submits that the concerned authority granted opportunity to the petitioner to participate in the proceeding but for reasons best known to the petitioner the petitioner did not attend the hearing fixed on 23rd December, 2025. He submits that the petitioner submitted a written notes before the concerned authority.

Mr. Jaharlal De, learned Senior Government Advocate submits that no prayer for adjournment was submitted by the petitioner before such authority. He also submits that an adjournment is not a matter of right and it is for the authority to consider the same and act in accordance with law. He further submits that repeated dates of hearing were fixed by the concerned authority.

After going through the materials on record this Court finds that the petitioner prayed for an adjournment by submitting a letter dated 23rd December, 2025. In the said letter it has been specifically stated that the petitioner lost his aunt only on 21st December, 2025 and since the petitioner has to perform the necessary rituals it will not be possible for the petitioner to attend the hearing fixed on 23rd December, 2025.

Mr. Jana, learned advocate appearing for the private respondent no.8 submits that such statement made in the letter dated December 23, 2025 is false.

However, the fact remains that the petitioner could not attend the hearing on 23rd December, 2025.

Without entering into the controversy as to whether the petitioner lost one of his close relatives on 21st of December, 2025, this Court is inclined to grant a last opportunity to the petitioner to attend the hearing as the order passed on 14th January, 2026 had serious civil consequences and a person affected ought to have been afforded an opportunity of hearing.

Since the date and time of hearing has been fixed at the suggestion of Mr. Jahar Lal De and in the presence of the learned advocate for the petitioner and the private respondent there would not be any necessity to serve any notice of hearing by the District Magistrate to the respective parties.

On a query of the Court Mr. Jahar Lal De, learned Senior Government Advocate suggests that March 11, 2026 may be fixed for hearing at about 2 p.m. The learned advocates for the petitioner and the private respondent agrees to the suggestion of Mr. Jahar Lal De, learned Senior Government Advocate.

At this stage Mr. Kaushik Dey, learned advocate for the petitioner submits that the demarcation report of the Block Land and Land Reforms Officer relied upon by the authorities while passing the order under Section 10(4) of the West Bengal Highways Act has not been provided to the petitioner.

For such reason, this Court is inclined to interfere with the order dated 14th January, 2026. Accordingly the order dated 14th January, 2026 passed by the District Magistrate, Paschim Medinipur in an appeal under Section 10(4) of the 1964 Act being Appeal Case No. 29 of 2025 stands set aside and quashed.

In the light of the submissions made by the learned advocates for the respective parties WPA 2277 of 2026 stands disposed of with the following directions:

1. Upon being approached by the petitioner, in writing for supply of the copy of demarcation report, the office of the District Magistrate, Paschim Medinipur being the 2nd respondent shall supply the copy of the demarcation report along with the sketch prepared by the concerned Block Land and Land Reforms Officer to the petitioner forthwith.
2. The District Magistrate, Paschim Medinipur being the 2nd respondent is directed to take up the hearing of the appeal under Section 10(4) of the 1964 Act challenging the order dated 2nd December, 2022 passed by the Executive Magistrate under Section 10(3) of the 1964 Act on 11th March, 2026 at about 2 p.m. If for any reason whatsoever the hearing cannot be concluded on that date, a short date for further hearing shall be fixed which shall not be later than March 17, 2026. The reasoned order shall be communicated to the respective parties on or before March 25, 2026.
3. Parties will be at liberty to raise all points including the point of jurisdiction of the authorities under the 1964 Act at the time of hearing before the appellate authority and such authority shall be free to decide the same in

accordance with law and by passing a reasoned order.

Since this Court has directed the disposal of the appeal within the specified time limit as mentioned hereinbefore, no coercive step shall be taken by the authorities in terms of the order passed under Section 10(3) of the 1964 Act till the communication of the order passed under Section 10(4) of the 1964 Act.

With the above observations, WPA 2277 of 2026 stands disposed of.

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.)