

Sl. 8
18.06.2026
Court No.19
BP

WPA 12626 of 2026

Parvej Mehedi
-versus-
The State of West Bengal & Ors.

Mr. Rabilal Maitra, Sr. Advocate
Mr. Rajitlal Maitra
..for the petitioner

Mr. Nilanjan Bhattacharjee, Sr. Standing Counsel
Ms. Jayita Dhar Chakraborty
..for the State

Mr. Maitra, learned senior advocate for the petitioner submits that through inadvertence the Sub-Divisional Magistrate, Gangarampur at Buniadpur, Dakshin Dinajpur has not been impleaded as a party respondent in this writ petition. He seeks leave to add such authority as a party respondent in this writ petition.

Leave is granted to the learned advocate on record to add the said authority as a party respondent in this writ petition.

Since the State is represented by the senior standing counsel there would not be any necessity to serve a copy of this writ petition upon the added respondent.

However, the learned advocate appearing for the petitioner shall be obliged to forward a copy of the amended cause title of the writ petition upon the learned senior standing counsel forthwith.

The primary grievance of the petitioner is that in spite of a complaint being lodged for removal of encroachment from PWD road no effective steps for removal of such encroachment has been taken by the respondent authorities till date.

Mr. Maitra, learned senior advocate appearing for the petitioner draws the attention of the Court to the memo dated 18th February, 2026 issued by the Assistant Engineer, Buniadpur Highway Sub-Division, Public Works (Roads) Directorate thereby forwarding the matter to the concerned Sub-Divisional Magistrate under the provisions of Section 10(2) of the West Bengal Highways Act, 1964.

Mr. Bhattacharjee, learned senior standing counsel submits that since the matter has been referred to by the Assistant Engineer to the concerned Sub-Divisional Magistrate, the proceedings under Section 10(3) of the 1964 Act shall be completed within the time limit as may be fixed by this Court.

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

Pursuant to a complaint lodged by the petitioner alleging encroachment upon the PWD road, a proceeding under Section 10 of the West Bengal Highways Act, 1964 was initiated. Notice under Section 10(1) of the 1964 Act has also been issued. Since the encroachment was not removed in compliance with the notice issued under Section 10(1) of the 1964 Act, the concerned Assistant

Engineer referred the matter to the concerned Sub-Divisional Magistrate under Section 10(2) of the 1964 Act.

Section 10(3) of the 1964 Act states that the Magistrate may on receiving the complaint and after notice to the person responsible for the encroachment and on taking such evidence, if any, as he thinks fit, make an order authorizing the authority or officer to recover possession and remove the encroachment in question and may, if necessary, direct the police to assist in the enforcement of the order. Sub-section (3) of Section 10 contemplates an adjudication to be made upon taking evidence and by passing an order.

Since the matter has been referred to by the concerned Assistant Engineer to the Sub-Divisional Magistrate vide memo dated 18th February, 2026 and four months has elapsed since the matter has been referred to by the Sub-Divisional Magistrate, this Court feels that a direction should be passed by the concerned Sub-Divisional Magistrate to dispose of the proceeding under Section 10(3) of the 1964 Act within a specified time frame.

In the light of the submissions made by the learned advocates for the respective parties, WPA 12626 of 2026 stands disposed of by directing the Sub-Divisional Magistrate, Gangarampur at Buniadpur, Dakshin Dinajpur being the added respondent herein to conclude the proceeding under Section 10(3) of the 1964 Act

pursuant to the memo dated 18th February, 2026 by passing a reasoned order strictly in accordance with the provisions laid down under sub-section(3) of Section 10 of the 1964 Act. The entire exercise shall be completed as expeditiously as possible but positively within a period of six weeks from the receipt of a server copy of this order along with the memo dated 18th February, 2026.

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.)