

21.01.2026

Item No.19

Ct. No.1

PG

WPA (P) 592 of 2025

**Tara Sundas
Versus
The State of West Bengal & Ors.**

Mr. Sayan De
Mr. Kaustav Shome....for the petitioner

Mr. Amal Kr. Sen, Ld. AAG
Mr. Jayanta Samanta
Ms. Debduti Dutta.....for the State

PER, PARTHA SARATHI SEN, J.:

1. Affidavit of service as filed on behalf of the writ petitioner is taken on record.
2. The writ petitioner and the respondent/State and its instrumentality are also represented by their learned counsel. None appears on behalf of Kalimpong Municipality and its instrumentality despite notice.
3. By filing the instant writ petition, the writ petitioner has prayed for issuance of writ/writs against the respondent authorities, more specifically against the respondent no. 2 authority commanding him to take appropriate steps for restricting the illegal construction as well as for issuing appropriate order for stoppage of construction work over D.I. Fund plot in and around Kalimpong Municipal areas.

4. In course of hearing, attention of ours is drawn to copies of some lease deeds, as have been annexed with the instant writ petition (annexure-P1). It is submitted that from the said lease deeds, it would reveal that the lands, which have been leased out by way of lease by the Deputy Commissioner, there is a situation that no building or other structure would be erected on such lands and no external roof or wall of a hut or other building may be repaired without obtaining approval in writing of the Deputy Commissioner.
5. It is submitted that similar such clause is there in respect of the leasehold properties situated in the Kalimpong area under D.I. Fund.
6. It is further submitted that on the basis of a RTI application, it came to the knowledge of the writ petitioner that under the D.I. Fund, no land has been transferred to Kalimpong Municipality. It is further submitted that it is the specific case of the present petitioner, who is a public spirited person that Kalimpong Municipality and its instrumentality are granting permission for construction of houses and buildings over the D.I. Fund land, though appropriate authority for granting such permission is the respondent no. 2.

7. On being asked by this Court, learned advocate for the writ petitioner further submits that though the writ petitioner had specific grievance, as discussed in the foregoing paragraphs but he is not in possession of any document to substantiate that prior to filing of the instant writ petition, which is in the nature of a public interest litigation, he has approached the respondent no. 2 authority.
8. Such being the position, we consider it fit to grant leave to the writ petitioner to approach the respondent no. 2 authority first and in the event his grievance is not addressed in an appropriate manner, the writ petitioner is at liberty to approach this Court by filing similar such application.
9. In view of the discussions made hereinabove, this Court, while disposing the instant writ petition, permits the writ petitioner to approach the respondent no. 2 authority by filing appropriate representation in writing along with a copy of this order and upon submission of such representation, the respondent no. 2 authority shall consider such representation in accordance with law and after giving due chance of hearing to the writ petitioner and/or any other stakeholders and/or their authorised representative, shall

pass a reasoned order within 120 working days and shall forthwith communicate the same to the writ petitioner.

10. With the aforementioned observation, the instant writ petition is disposed of.

11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)