

17.03.2025
Item No. 182
Ct. No. 39
AN

WPA 3079 of 2025
Biplab Naskar & ors.
vs.
State of West Bengal & ors.

Mr. Rabindranath Mahato
Md. Hasanuz Zaman
Mr. Aritra Shankar Ray
Md. Zeeshanuz Zaman
... for the petitioners

Mr. Lalit Mohan Mahata, Id. AGP
Mr. Ziaul Haque
... for the State

Mr. Mrinal Kanti Ghosh
... for respondent no. 8

Affidavit of service filed on behalf of the petitioners
is taken on record.

On the prayer of learned advocate for the
petitioners, leave is granted to file supplementary
affidavits.

Supplementary affidavits filed on behalf of the
petitioners are also taken on record.

This writ petition has been filed for quashing
and/or setting aside the letter under Memo No. Matla-
1/1006/2024 dated 30.10.2024 of the Pradhan, Matla-I
Gram Panchayat, respondent no. 6 herein.

Mr. Mahato, learned counsel appearing for the
petitioners submits that respondent no. 6, the Pradhan,
Matla-I Gram Panchayat has cancelled the sanctioned
building plan of the petitioners by the aforesaid letter. The

Pradhan is not the appropriate authority to cancel a building plan sanctioned in favour of the petitioners. As per Section 23(5) of the West Bengal Panchayat Act, 1973 (*hereinafter referred to as the said Act of 1973*), it is a statutory requirement that the Pradhan has to refer the matter to the Sub-Divisional Officer who shall thereafter decide the issues in accordance with law. Respondent no. 6, the Pradhan has not taken such statutory recourse as enshrined in the Act of 1973 in cancelling the sanctioned building plan and as such, the order passed by the Pradhan cancelling the sanctioned building plan is illegal and perverse on the face of it and requires to be set aside. Furthermore, a demolition notice has been issued by the respondent no. 6, the Pradhan which is also not in consonance with Section 23(5) of the said Act of 1973. He seeks for quashing of the impugned letter under challenge.

Mr. Lalit Mohan Mahata, learned Additional Government Pleader representing the State submits that the work of construction has been made over a plot of land which is a vested land, in respect of which '*patta*' has been issued in favour of the grandmother of the petitioners. Therefore, the Pradhan ought not to have been sanctioned the building plan in favour of the petitioners, since the land is a vested one. The transfer of the '*patta*' has been made without the permission of the Collector.

Mr. Mrinal Kanti Ghosh, learned counsel appearing for private respondent no. 8 submits that the building plan

has been cancelled by the Pradhan, respondent no. 6 in compliance with the order passed by this Court in WPA 9206 of 2022 on 31.08.2022. The construction has been undertaken on a vested government land. Since the demolition has not yet been made, a contempt application has been filed by his client, respondent no. 8 herein being WPCRC 91 of 2024 in WPA 9206 of 2022, wherein orders have been passed upon the Pradhan to take consequential steps for demolition. Therefore, the action taken by respondent no. 6, the Pradhan is in compliance with the orders passed by this Court in the previous writ petition as well as in the contempt application and as such, it cannot be interjected by way of a subsequent proceedings.

Mr. Mahato, learned advocate for the petitioners informs this Court that the petitioners have filed an application for addition of parties being CAN 1 of 2025 in the contempt proceedings. He also indicates that the Court had given direction to the Pradhan to take consequential steps and not for demolition.

In the earlier writ petition being WPA 9206 of 2022 filed by respondent no. 8, herein, following directions were passed:

“The respondent Nos. 5 and 6 are directed to consider the representation filed by the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties immediately thereafter.

The aforesaid respondents shall take into consideration the specific stand of the petitioner that a plan could not be sanctioned in favour of a private party in respect of the land which is recorded in favour of the State of West Bengal.”

The order impugned for cancellation of the sanctioned building plan records that such order has been passed in compliance with the order of this Court in WPA 9206 of 2022.

The orders passed in the contempt proceedings in WPCRC 91 of 2024 have been placed before this Court, which are reproduced for sake of convenience:-

By order dated 20.06.2024, following directions were issued:

“The Pradhan is directed to ascertain the plot number over which the plan was sanctioned. If it reveals that the plan was sanctioned over plot of land recorded in favour of the Government, then explanation shall be forwarded as to how the plan could be sanctioned in favour of a private party over a Government plot of land.”

Subsequent thereto, on 12.09.2024, following observation was made:

“The Pradhan could not have granted sanction over any vested plot of land in favour of the private party.

The Pradhan, possibly, was misled by the parties for sanctioning the plan. If the plan has been obtained by practicing misrepresentation and/or fraud, then the sanctioned plan is liable to be revoked.”

Thereafter, on 30.01.2025, the Hon'ble Court taking into consideration that the Pradhan has cancelled the sanctioned plan which was granted in favour of the private respondent made following observations:

“It appears there from that Pradhan has cancelled the sanctioned plan which was granted in favour of the private respondent.

The same implies that the construction made pursuant to the sanctioned plan is an illegal one and is liable to be demolished.

The Pradhan is directed to take necessary consequential steps in the matter and report compliance.”

Thus, from the aforesaid, it manifests that the issues raised in this writ petition is very much live before the Hon'ble Court taking up the contempt application. It has been informed by the learned counsel appearing for the petitioners that the petitioners have already filed an application for addition of parties in the contempt proceedings. Such being the position, since the issues raised in this writ petition is pending before the Court in the contempt proceedings, in the opinion of this Court, it would not be proper to decide similar issues in the present proceedings. Thus, the writ petition falls short of merit.

Accordingly, **WPA 3079 of 2025** is dismissed.

Consequently, all connected applications, if any, also stand dismissed.

Interim orders, if any, stand dismissed.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)