

03.07.2025
Court No.42
Item no.28
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 4164 of 2025

Goutam Ghosh

Versus

The State of West Bengal & Ors.

Mr. Probal Mukherjee, Sr. Adv.
Mr. Suhrid Sur

....for the Petitioner.

Mr. Partha Pratim Roy,
Mr. Samrat Chakraborty,
Mr. Saikat Gayen

.....for the Respondent No.13.

Mr. Arup Kumar Mondal,
Ms. Sipra Saha

....for the State.

Mr. Falguni Majhi

....for the Respondent
Nos.6, 7, 7A & 8.

Affidavit-of-service filed by the petitioner is
taken on record.

This writ petitioner is filed seeking direction
upon the respondent authorities to demolish the
illegal construction undertaken by the private
respondent on plot No.FR 12/10, 1st Avenue, Ulhas
Mini Township, Police Station Burdwan Sadar, Post
Office, Joteram, District – Purba Bardhaman.

Mr. Probal Mukherjee, learned Senior Advocate
appearing for the petitioner submits that the
respondent No.10, Executive Officer-cum-Block

Development Officer, Burdwan-II Panchayat Samity though issued notice for causing enquiry on 24th November, 2023, but the same has not been held as yet. No notice of such enquiry was served upon the petitioner. He seeks necessary order be issued upon the respondent No.10 to cause enquiry in respect of the complaint lodged by the petitioner Annexure P-3.

On the contrary, Mr. Partha Pratim Roy, learned Advocate for the private respondent No.13 submits that upon enquiry it was found that the allegations of the petitioner was not substantiated and conclusively established. He seeks for dismissal of the writ petition.

Report filed by the State is taken on record.

Learned Advocate for the State submits that upon enquiry the petitioner failed to substantiate his complaint.

In reply, Mr. Mukherjee, learned Senior Advocate for the petitioner submits that the enquiry report of the Junior Engineer (P&RD), Burdwan-II Development Block dated 30th November, 2023 is evasive and baseless and does not disclose the actual enquiry that has been undertaken. He seeks that necessary direction be issued for causing enquiry in presence of both the parties.

Perused the report filed by the State annexing the enquiry report of the Junior Engineer (P&RD),

Burdwan-II Development Block dated 30th November, 2023.

Save and except stating that the allegation of the petitioner made in his petition dated 30th October, 2023 is not substantiated and conclusively established, the enquiry report does not disclose any further details.

Accordingly, the writ petition is disposed of directing the concerned panchayat samity to follow the procedure stated hereinabove while disposing the complaint of the petitioner dated 30th October, 2023:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent No.13 and all other interested parties. An advance notice of the inspection shall be served upon the petitioner and the respondent no.13 and on all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place, in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take interim measures by stopping such construction.

- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioner, the respondent No.13 and all other interested parties including a representative of the Burdwan Development Authority. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in accordance with law.

It is made clear that this Court has not gone into the merits of the writ petition.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The issues to be decided would be, whether the construction has been made in terms of the sanction granted by the panchayat samiti and the rules and regulations of the Burdwan Development Authority or not. The question of right, title, encroachment and interest etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the concerned permission granting authority and the Burdwan Development Authority, for necessary compliance of this order.

With the aforesaid observations, the writ petition being **WPA 4164 of 2025** is disposed of.

Interim order, if any, stands vacated.

All connected applications, if any, stand disposed of.

There shall be no order as to costs.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)