

27.01.2025
Item No.9
Ct. No.26
CHC
(disposed of)

FMA 518 of 2024

**Pirottar Panch Pir Waqf Estate represented by
its President Nurul Islam
Vs.
The State of West Bengal & Ors.**

Mr. Dipnath Roy Chowdhury, Advocate
Mr. G. F. Hossain, Advocate
...for the appellant

Mr. K. J. Yusuf, Ld. A.G.P.
Mr. Parikshit Goswami, Advocate
...for the State

Ms. Mekhla Sinha, Advocate
...for the Pradhan, Belmuri Gram Panchayat

Mr. Raghunath Chakraborty, Advocate
Mr. Sumit Kumar Ray, Advocate
Mr. Munshi Ashiq Elahi, Advocate
Mr. Rohit Mahato, Advocate
...for the respondent no.12

1. Appeal is directed against an order dated February 5, 2024 passed in W.P.A. 18485 of 2023.
2. The appeal is at the behest of the appellant.
3. By the impugned order, the learned Single Judge dismissed the writ petition on the ground that, the allegation was without any sanctioned plan remain unsubstantiated. In course of hearing of the appeal from time to time, we called upon the parties to produce the sanctioned building plan in Court.

4. Learned advocate appearing for the Panchayat submits that Panchayat at the present moment is unable to find out any sanctioned building plan in respect of construction concerned. She refers to a letter dated January 16, 2025 issued by the Pradhan to the Block Development Officer. She contends that, sanctioned plan was granted in favour of the father of the private respondent. However, she is unable to produce any sanctioned building plan.
5. Learned advocate appearing for the private respondent submits that, his client is not in a position to produce the sanctioned building plan at the present moment. However, his client is in possession of a receipt which goes on to show that appropriate fee for grant of sanction of building plan was paid to the Panchayat.
6. State is represented.
7. State submits a report pursuant to an order in the present appeal.
8. As on date, it is not possible to conclusively arrive at a finding as to whether, there was a sanction granted in respect of the construction presently available at the locale.
9. In our view, the issue as to whether, the construction made was with sanction or not needs to be decided. Court is informed that, the Zilla Parishad presently is the appropriate authority to decide such issue in

view of the nature of construction available at the locale.

10. In such circumstances, the impugned order dated February 5, 2024 is set aside.
11. Zilla Parishad will undertake the exercise of finding out whether the construction available at the locale was made with prior sanction or not. In the event, it found that, the construction was unauthorized, no doubt it will take appropriate step with the regard thereto.
12. Zilla Parishad will afford a reasonable opportunity of hearing to the appellant and to the private respondents on the issue of unauthorized construction.
13. Zilla Parishad is at liberty to take assistance of such other party and consult such other documents that it deem appropriate to decide such issue and it will pass a reasoned order which it will communicate within two weeks from the date of communication of the order to the Zilla Parishad.
14. We clarify that our observations are limited to the extent of the consideration of the merits of the appeal only. The Zilla Parishad will not be persuaded by any observations made either by the learned Single Judge or by us in this appeal.
15. Impugned order is set aside.

16. **FMA 518 of 2024** is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)