

11.02.2025
Sl. No. 02.
D/L.
Mithun
Ct.No.39.

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

WPA 6636 of 2024

**Sri Anup Kumar Dutta
Vs.
The State of West Bengal & Ors.**

Mr. Partha Pratim Roy,
Ms. Paulomi Chakraborty,
Mr. Samrat Chakraborty

..for the petitioner

Mr. Uday Sankar Chattopadhyay,
Ms. Trisha Rakshit,
Ms. Rajashree Tah,
Ms. Aishwarya Datta

...for respondent no.11.

Mr. Pinaki Dhole,
Mr. M. Kundu

...for the State

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

This writ petition has been filed under Article 226
of the Constitution of India for early disposal of the
appeal (filed on 6th November, 2023) pending before the
S.D.O., Burdwan Sadar (North), Purba Burdwan being
an appellate authority, at Burdwan under Section 114A
of West Bengal Panchayat Act, 1973 as well as for
demolition and removal of unauthorized cantilever
constructed by the private respondent over the plot of
land situated at FR-14/7, 1st Avenue, Ulhas Mini
Township, Post Office-Joteram, District: Purba
Burdwan.

This is second round of litigation.

Previously, the petitioner being aggrieved by the construction over the aforesaid plot of land in question filed a writ petition being WPA 469 of 2023. While disposing of the said writ petition, following directions were issued:-

“While disposing of the same, the authorities shall follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.6 and all other interested parties. An advance notice of the inspection shall be served upon the petitioner and the respondent no.6 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.6 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.*

*The court has not gone into the merits of the claims.
The entire exercise shall be completed within a period of four months from the date of receipt of the representation.*

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.”

Pursuant to such direction issued by this Court, the Executive Officer, Burdwan-II Panchayat Samity, Barsul(U), Purba Bardhaman passed order with following directions on 6th October, 2023:-

“As the sanctioned plan of the said building was not followed hence, Sri Goutam Ghosh is hereby ordered to

demolish the extended cantilever in compliance with the approved plan within 10/11/2023. If he failed to do the same within the stipulated time frame then the Prodhan Baikunthapur-I Gram Panchayat is hereby ordered to make arrangement for demolition of the same.”

Since the demolition of the structure has not been made by private respondent no.11 within the stipulated period and the Prodhan, Baikunthapur-I Gram Panchayat failed to make arrangement for demolition of the same, the present writ petition has been filed.

Mr. Partha Pratim Roy, learned Advocate for the petitioner submits that though the Executive Officer, Burdwan-II Panchayat Samity, held that illegal construction has been made by the private respondent in violation of Section 114(A) of the West Bengal Panchayat Act, 1973 but it has only directed for demolition of the extended cantilever without directing for demolition of other portions of the illegal construction. Being aggrieved by a portion of the said order, appeal has been preferred by the petitioner on 6th November, 2023 before the concerned authority. He seeks for execution of the order passed for demolition of extended cantilever as well as for early disposal of the appeal pending before the S.D.O., Burdwan Sadar.

Mr. Uday Sankar Chattopadhyay, learned Advocate for private respondent no.11 submits that his client has also filed an application challenging the order of the Executive Officer, however, that is not in form. He also indicates that his client while making construction

has complied the requirement as per West Bengal Panchayat Act, 1973.

Mr. Pinaki Ranjan Dhole, learned Advocate for the State-respondents submits that the order passed by Executive Officer pursuant to order of this Court, if not complied, should be directed to the Pradhan, respondent no.4 for its execution.

From the materials placed before this Court, it is found that pursuant to order passed in WPA 469 of 2023, the Executive Officer, Burdwan-II Panchayat Samity has passed order directing the respondent no.11 for demolition of structure i.e. extended cantilever within a stipulated period. Failing which, the Pradhan, Baikunthapur-I Gram Panchayat was required to do the needful. It is not in dispute that such demolition has not been made by respondent no.11 within the stipulated period. Such being the position, respondent no.4, Prodhan, Baikunthapur-I Gram Panchayat is directed to take appropriate steps for demolition of the illegal construction in terms of order passed by the Executive Officer on 6th October, 2023, within a period of six weeks from date of communication of this order, if not already taken.

It is found that an appeal has been preferred by the petitioner before the S.D.O., Burdwan Sadar (North), Purba Burdwan under Section 114A of the West Bengal Panchayat Act, 1973 on 6th November, 2023 on the

grounds excepting the direction passed for demolition of extended cantilever. However, the same has not been disposed of as yet.

Accordingly, the Sub Divisional Officer, Burdwan Sadar (North), Purba Burdwan Town, respondent no.5 herein, is directed to dispose of the appeal filed by the petitioner on 6th November, 2023 as expeditiously as possible.

With the aforesaid directions, the writ petition being **WPA No.6636 of 2024** stands disposed of.

All connected applications, if any, stand disposed of.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

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 this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Bivas Pattanayak, J.)