

19.08.2025
Sl. No.18(DL)
Ct. No.42
srm

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

W.P.A. No. 7690 of 2024

Nirmal Dey & Anr.

Versus

The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal),
Mr. Biswarup Chatterjee,
Ms. Sarbani Dutta

...for the Petitioners.

Mr. Lalit Mohan Mahata,
Mr. Ziaul Haque

...for the State.

Mr. Arabinda Manna

...for the Respondent No.8.

1. Affidavit-of-service filed on behalf of the petitioners is taken on record.
2. On the prayer of the learned Advocate for the petitioners, leave is granted to correct the cause title of the writ petition as well as prayer (a) of the writ petition.
3. By the present writ petition, the petitioners seek for quashing and/or setting aside of the order dated 26th February, 2024 passed by the respondent No.7, Pradhan, Kamarpukur Gram Panchayat (Annexure P8).
4. The petitioners contend that the private respondent undertook illegal and unauthorised construction over the land situated at LR Plot No.1216

(corresponding to RS Plot No.1137), LR Khatian No.426, Mouza-Harisoa under Goghat Police Station. The petitioners made representations before the local gram panchayat on 13th January, 2023 and 28th February, 2023 (Annexure P3 and P4 respectively). Since no steps were taken, the petitioners approached this Hon'ble Court by filing writ petition being WPA 17296 of 2023.

5. The said writ petition was disposed of on 3rd October, 2023 with the following direction:

"The writ petition is accordingly disposed of by directing the respondent no.10 to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months 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 including the petitioners immediately thereafter. In the event, the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law. The aforesaid respondent shall restrict the consideration of the representation with regard to the unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land."

6. Subsequent to a notice dated 19th January, 2024, the Pradhan conducted a hearing in presence of the petitioners and private respondent and passed an order on 26th February, 2024. Being aggrieved and dissatisfied with the impugned order the writ petitioners have preferred this present writ petition.
7. Ms. Pampa Dey (Dhabal), learned Advocate for the petitioners submits that the Pradhan, respondent No.7 has not passed orders in accordance with the

direction issued by this Court. Although, the private respondent No.8 failed to produce any documents showing sanction of building plan, the Pradhan refrained from passing orders in terms of Section 23(5) of the West Bengal Panchayat Act, 1973. She seeks for setting aside of the impugned order and direction upon the Pradhan to consider afresh in the light of the direction issued in WPA 17296 of 2023.

8. Mr. Lalit Mohan Mahata, learned Additional Government Pleader appearing on behalf of the State submits that the Pradhan has to come to a finding regarding any illegality in the structures undertaken by the private respondent. In the event of any illegality been found in contravention of Section 23 of the West Bengal Panchayat Act, 1973, he is under obligation to refer the matter to the Sub-Divisional Officer in terms of Section 23(5) of the West Bengal Panchayat Act, 1973

9. Mr. Arabinda Manna, learned Advocate for the private respondent No.8 submits that the work of construction is undertaken in accordance with the permission granted by the local gram panchayat. There is no illegality in the construction.

10. This is second round of litigation.

11. In the earlier round of litigation in WPA 17296 of 2023 it was specifically directed that in the event the respondent no.10 in the said proceeding is of

the opinion that the construction has been made either in violation of the plan sanctioned or devoid of sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law. The impugned order records that on the date of hearing no such documents of any permission was produced. It is pertinent to note that the Pradhan, respondent No.7 has not passed any opinion as to whether the construction undertaken by the private respondent is unauthorised or illegal or any violation of sanctioned plan or devoid of sanction plan. Thus, it is found that the impugned order passed is not in accordance with the direction issued by this Court in WPA 17296 of 2023.

12. Accordingly, the impugned order of the respondent No.7 dated 26th February, 2024 is set aside.
13. The writ petition being **WPA 7690 of 2024** is disposed of directing the respondent No.7, Pradhan, Kamarpukur Gram Panchayat, Hooghly to consider the matter afresh upon notice and hearing the parties in the light of the direction issued by this Court in WPA 17296 of 2023 and pass a reasoned order within a period of four weeks from the date of communication of this order.
14. The reasoned order shall be communicated to the petitioners within a week thereafter.

15. The learned Advocate for the petitioners is directed to communicate this order to the respondent No.7 for necessary compliance.
16. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
17. Interim order, if any, stands vacated.
18. All connected applications, if any, stand disposed of.
19. There shall be no order as to costs.
20. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
21. 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.)