

08.05.2025
Sl. No. 47.
D/L.
Mithun
Ct.No.39.

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

WPA 7351 of 2025

**Abhijit Das
Vs.
The State of West Bengal & Ors.**

Mr. Bhagbat Chaudhuri,
Ms. Gopa Mainan

...for the petitioner

Mr. Arnab Mukherjee,
Ms. Shreyasi Manna

...for respondent no.10 and 11.

Sk. Jahadar Alam

...for respondent nos.7 to 9.

Mr. Lalit Mohan Mahata, Ld. AGP,
Mr. Prasanta Behari Mahata

...for the State

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

This writ petition is filed seeking direction upon
respondent nos.4 and 5 to allow the application of the
petitioner submitted for sanction of building plan dated
23rd March, 2024 bearing house building application
acknowledgment No.HN24014Y18 (Annexure-P/6) in
respect of L.R. Plot No.4910, Khatian No.163, Mouza-
Deulpur, J.L. No.12, P.S. Panchla, District: Howrah.

The petitioner contends that he is a co-sharer in
respect of the aforesaid property. An application for
sanction of building plan was made on 23rd March, 2024
before the Deulpur Gram Panchayat. However, neither

any intimation of refusal of the same nor the sanction building plan was accorded. As per Rule 30 of West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 (*hereinafter referred to as 'Rules of 2004'*), if the permission or refusal of permission is not communicated by the Gram Panchayat within prescribed limit time, it shall be presumed that the Gram Panchayat has accorded such permission. Since no communication was received from the concerned Gram Panchayat, the petitioner started his work of construction. However, the petitioner has been restrained verbally by the local Gram Panchayat from executing such work of construction. Hence, this writ petition.

Mr. Bhagbat Chaudhuri, learned Advocate for the petitioner submits that the petitioner has applied for sanction of building plan in accordance with Rule 17 of the Rules of 2024 upon payment of prescribed fees for undertaking a work of construction over the property in question. However, the sanction has not been accorded by the local Gram Panchayat within the prescribed time limit. As per Rule 30 of the Rules, 2004, if the sanction is not accorded within the prescribed limit, it shall be presumed to have been sanctioned. The petitioner on such presumption undertook to complete the work of construction. However, the petitioner has been restrained from executing the work of construction by

the local Gram Panchayat. He seeks for appropriate direction upon the authority for according sanction of the building plan of the petitioner.

Mr. Lalit Mohan Mahata, learned Advocate appearing for the State submits that the application is bereft of specification of the extent of construction. The authority of the Panchayat to accord sanction building plan is limited to certain extent and without such extent of construction been specified, it would not be possible for the Panchayat to accord permission for construction of a building. However, he submits that the Gram Panchayat ought to have considered the entire aspect and disposed of the application of the petitioner submitted for sanction of building plan. He further submits that the application has not been made as per Rule 17 Form-IV.

Learned Advocate appearing for the private respondent nos.7 to 9 and 10 and 11 submits that a partition suit has been filed by private respondent nos.10 and 11 being Title Suit No.223 of 2025. Hence, the property is undemarcated one. Therefore, the question of sanction of building plan cannot not arise prior to such demarcation and partition by metes and bounds.

Admittedly, annexure-P/6 shows acknowledgment of receipt of house building application dated 23rd March, 2024 by the Deulpur Gram Panchayat from the

petitioner. Deulpur Gram Panchayat has not decided the fate of such application. As per Rule 27(1) of Rules of 2004, on presentation of an application under sub-rule (1) of rule 17, the Pradhan or the Upa-Pradhan or any other member authorised by the Gram Panchayat in this behalf, shall examine the right, title and interest of the applicant in respect of the land on which the structure or the building is proposed to be erected along with the building plan and the site plan, and, after such enquiry as may be considered necessary, shall within a period of thirty days from the date of receipt of the application, place it before the Gram Panchayat for granting or, as the case may be, refusing permission for the erection or construction applied for. In the instant case, admittedly no decision with regard to grant or refusal of permission has been taken by the concerned Gram Panchayat within the prescribed time limit.

Accordingly, respondent no.5, The Pradhan, Deulpur Gram Panchayat is directed to decide and dispose of the application of the petitioner for sanction of house building submitted by the applicant on 23rd March, 2024 within a period of one month from date of communication of this order, upon notice and hearing all the interested parties. Liberty is granted to the parties to produce their relevant documents at the time of hearing.

With the aforesaid directions, the writ petition being **WPA 7351 of 2025** stands disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

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.)