

24.04.2025
Sl. No.547(DL)
Ct. No.39
srm

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

W.P.A. No. 8932 of 2025

Goutam Ghosh

Versus

The State of West Bengal & Ors.

Mr. Probal Mukerjee,
Mr. Suhrid Sur

...for the Petitioner.

Mr. Jaharlad De,
Mrs. Sukla Das Chandra

...for the State-respondents.

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

Service has been effected upon Baikunthapur-I
Gram Panchayat by email.

Despite service being not complete in respect of
private respondent no.14, the matter is taken up upon
urgent mentioning by learned advocate for the
petitioner.

On the prayer of the learned Advocate for the
petitioner, leave is granted to file supplementary
affidavit.

Supplementary affidavit filed on behalf of the
petitioner is taken on record.

This writ petition has been filed for setting
aside/quashing of demolition notice issued under
Reference No.286/BKP-I dated 8th April, 2025 by the

Pradhan, Baikunthapur-I Gram Panchayat to the petitioner.

The petitioner contends that the work of construction has been undertaken on the basis of a sanctioned plan. However, the private respondent filed a writ petition being WPA 469 of 2023 and pursuant to the order passed in the aforesaid writ petition an order was passed by the Executive Officer, Burdwan-II Panchayat Samiti, Purba Bardhaman on 6th October, 2023 holding that there has been deviation from the sanctioned plan to the extent of construction of extended cantilever and direction was issued to the petitioner to demolish such extended cantilever within a stipulated time frame, failing which the Pradhan was directed to make arrangement for demolition.

The petitioner has filed a statutory appeal before the Sub-Divisional Officer, Sadar (North) Sub-Division challenging the order of the Executive Officer, dated 6th October, 2023 which is pending for disposal. However, in the meantime the Pradhan has issued a notice for demolition of the structure constructed by the petitioner. Hence, this writ petition challenging the notice and seeking for revocation of the same.

Mr. Probal Mukherjee, learned Senior Advocate appearing for the petitioner submits that the enquiry report does not specify the extent of deviation in construction of the cantilever. The enquiry report clearly shows that the petitioner has kept open space

more than which is required. Relying on an unreported decision of this Court in the matter of ***Biswajit Pramanik vs. the State of West Bengal*** (In Re: WPA 4993 of 2022), he indicates that the Pradhan is not the appropriate authority under the West Bengal Panchayat Act to pass order for demolition of the structure. He seeks for stay of such notice till the appeal is heard and disposed of finally by the appellate authority.

Mr. Jaharlal De, learned Additional Government Pleader appearing for the State-respondents submits that pursuant to the order passed in earlier writ petition being WPA 469 of 2023, the Executive Officer passed order for demolition of the extended cantilever and directed the petitioner to cause demolition within a specified period failing which the Pradhan of the concerned gram panchayat to make arrangement for the demolition of the same. The private respondent filed a writ petition being WPA 6636 of 2024 wherein specific direction was given to the respondent No.4, Pradhan of the local gram panchayat (respondent no. 13 herein) to take appropriate steps for demolition of the illegal construction in terms of order passed by the Executive Officer on 6th October, 2023. The said order of this Court has not been appealed. He further indicates that there is no stay application pressed into service before the appellate authority by the petitioner seeking for stay of demolition. By issuing such notice

of demolition, the respondent no.13, Pradhan, Baikunthapur-I Gram Panchayat has acted in terms of order of this Court and, therefore, cannot be interfered with. In the light of the aforesaid submissions, he seeks for dismissal of the writ petition.

Pursuant to order passed in WPA 469 of 2023, the Executive Officer *vide* order dated 6th October, 2023 passed the following order:

“As the sanctioned plan of the said building was not followed hence, Sri Goutam Ghosh is hereby order to demolish the extended cantilever in compliance with the approval 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.”

The private respondent no.14 filed a writ petition being WPA 6636 of 2024 wherein after hearing the parties following orders were passed:

“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.

Admittedly, no appeal has been preferred against the aforesaid order passed in WPA 6636 of 2024. By the order passed in WPA 6636 of 2024, the respondent no.13, Pradhan, Baikunthapur-I Gram Panchayat was directed to take steps for demolition of the illegal construction in terms of order passed by the Executive

Officer. Since no appeal has been preferred against the aforesaid order, this Court finds that there is no illegality in the notice dated 8th April, 2025 issued by the Pradhan, Baikunthapur-I Gram Panchayat for demolition of illegal structure. The Court cannot sit in appeal over its own order. Accordingly, the writ petition falls short of merit.

In the light of above discussion, the writ petition being **WPA 8932 of 2025** stands dismissed.

However, it is upto petitioner to pursue his appeal before the appellate authority.

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.)