

17.06.2025
Court No.13
Item No.25
AP

FMA 899 of 2025
With
CAN 1 of 2025

Biswanath Ghosh
Vs.
The State of West Bengal and Ors.

Mr. Anish Kumar Mukherjee
Mr. T. Pramanick

... for the Appellant.

1. The appeal is directed against an order dated 23rd April, 2025 passed by a Single Bench of this Court in WPA 22528 of 2024. In the writ petition the grievance of the writ petitioner was that the S.D.O. has not taken steps despite recommendation by the Pradhan of the Gram Panchayat dated 10th June, 2024 under Section 23 Sub-Section 6 of the West Bengal Panchayat Act, 1973.

2. The earlier writ petition being WPA 6531 of 2023 was filed complaining inaction on the part of the Pradhan of a Gram Panchayat. Inaction was in respect of unauthorized construction made by the private respondents. The Court was disposing of the writ petition in its order dated 17th April 2023 directed the respondent authorities to conduct inspection in the presence of the parties and ascertain as to whether the construction made by the private respondents was with a sanction plan or not. The concerned Pradhan and the authority under the Panchayat Act namely S.D.O. etc. were directed to complete the proceedings in respect of

the construction by the private respondents under Section 23 of the West Bengal Panchayat Act, 1973.

3. For failure on the part of the Pradhan, WPCRC 43 of 2024 was taken out against the Pradhan and the S.D.O. concerned. Rule was, however, issued by the Single Bench only against the Pradhan.

4. After the contempt application was moved the Pradhan passed an order dated 10th June, 2024 holding that the construction made by the private respondents was unauthorized. This confers a fresh cause of action on the appellants according to learned counsel. Such view is supported by several decisions of the Supreme Court namely inter alia being ***Midnapore People's Cooperative Bank Ltd. Vs. Chunilal*** reported in **(2006) 5 SCC 399** para 11 of the aforesaid decision was dealt with by this Court in an appeal earlier today.

5. While it could be interpreted that the direction in the order dated 17th April, 2023 passed in WPA 6531 of 2023 would imply a direction upon the S.D.O. as well, the filing of the second writ petition by the writ petitioner on the basis of the order of the Pradhan of the Gram Panchayat alleging inaction by the S.D.O. cannot be held to be misplaced.

6. The writ petitioner had the option to either to pursue his earlier contempt application or file a fresh

writ petition based on the order of the Pradhan alleging inaction by the S.D.O. concerned.

7. In that view of the matter, the impugned order dated 23rd April, 2025 shall stand set aside. The matter is remanded back to the Single Bench. The writ petition is restored to its file and number and may be disposed of by the Single Bench in accordance with law.

8. In view of the aforesaid order, WPCRC 43 of 2024 shall stand disposed of. Rule, if any, shall stand discharged.

9. Accordingly, FMA 899 of 2025 is allowed and disposed of. Consequently, all connected pending applications, if any, are also disposed of.

10. There shall be no order as to costs.

11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)