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12-11-2025
AKG
Ct. 15

WPA 15155 of 2025
Suman Das
Vs.
The State of West Bengal & Ors.

Mr. Avijit Ganguly	...for the Petitioner
Mr. Manas Kundu	...for the State
Mr. Parashar Baidya, Mr. Soham Banerjee	...for Respondent No. 12

A short but significant question of law arises for consideration in this writ petition—under what circumstances the construction of a boundary wall within a Panchayat area of the State requires prior permission from the Panchayat Authority.

The learned advocate appearing for the petitioner submits that respondents nos. 8 and 9 have constructed a boundary wall by encroaching upon a portion of land allegedly owned by the petitioner. It is contended that the said boundary wall has been erected without obtaining permission from the concerned Panchayat Authority and, therefore, the same is liable to be demolished in exercise of powers under Section 23(5) of the West Bengal Panchayat Act, 1973.

Photographs of the boundary wall have been produced before this Court. Admittedly, the wall is constructed with brick and cement, has a height of less than one metre, and

encloses a vacant area of land. The issue for determination, therefore, is whether such a structure requires prior permission from the Panchayat Authority in light of the statutory scheme.

The relevant provision, Section 23(1) of the West Bengal Panchayat Act, 1973, reads as follows:

“23. Control of building operations. – [(1) No person shall erect any new structure or new building or make any addition to any structure or building having plinth area of not more than 150 square metres and height not more than 6.5 metres in any area within the jurisdiction of a Gram Panchayat except with the previous permission in writing from the Gram Panchayat.”

The terms “structure” and “building” are not defined in the Act. There can, however, be little dispute that a boundary wall falls within the ordinary meaning of the term “structure.”

The learned advocate for the petitioner has, however, rightly drawn the attention of this Court to Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004, which provides as follows:

“19. Exemption from permission. – (1) No permission of the Gram Panchayat shall be necessary for erection of any thatched structure, tin shed, or tile shed, without brick wall, covering an area not exceeding eighteen square metres, and such structure or shed does not cover more than three-fourth of the total area of the land including the land appurtenant thereto:

(2) Permission of the Gram Panchayat shall not be necessary for repair of an existing structure or building unless,

(i) any structural change is involved, or

(ii) such repair brings any change in the existing covered area, or

(iii) such repair includes any addition of a projection from the existing structure or building ground level or upper level.

(3) Permission of a Gram Panchayat shall not be necessary for erection of a boundary wall unless it is made of brick or cement and the bounded area is not kept as vacant land but it is used or likely to be used as stack yard or for any commercial or institutional purpose either on open space or by erecting temporary shed.”

At first glance, the language employed in Rule 19(3) may appear somewhat ambiguous. However, upon close scrutiny, the legislative intent becomes clear.

Clause (3) connects three ideas—(a) wall is brick- or cement-built, (b) land not kept vacant, and (c) land used or likely to be used as a stack yard or for any commercial or institutional purpose. They together form a single, continuous condition.

In my view, a boundary wall requires prior permission from the Panchayat Authority only when the following conditions are cumulatively satisfied:

(a) the wall is made of brick or cement; and

(b) the enclosed area is not kept as vacant land; and

(c) the enclosed area is used or is likely to be used—

(i) as a stack yard; or

(ii) for any commercial purpose; or

(iii) for any institutional purpose.

It is abundantly clear that where a boundary wall merely encloses a residential building or agricultural land, no sanctioned plan is required. Although such a wall may satisfy Conditions (a) and (b), Condition (c) fails to apply, as the land is not used as a stack yard or for commercial or institutional purposes.

Furthermore, the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 prescribe a statutory form for the submission of applications seeking sanction of building plans. Notably, the said form contains no provision for the sanction of a stand-alone boundary wall.

Having regard to the aforesaid legal position, I am of the view that the boundary wall in question does not require prior permission from the Panchayat Authority. This view also finds support from the judgment reported in (2016) 4 CHN 709 (Tapan Kumar Dutta & Ors. v. The State of West Bengal & Ors.), on which reliance has been placed by the learned advocate appearing for respondents nos. 7 to 12.

Accordingly, **WPA 15155 of 2025** stands dismissed.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)

