

09.12.2025
Sl No.3
Ct. No.15
S.A.

WPA 23750 of 2025

Madhabi Roy

-vs-

State of West Bengal & Ors.

Mr. Subir Sanyal

Mr. Ratul Biswas

Ms. Soumyadipa Kanu

Mr. S. Mukherjee

...for the petitioner

Ms. Pampa Dey (Dhabal)

Mr. Biswarup Chatterjee

Ms. Sangita Banerjee

...for respondent no.9

Mr. Santanu Mitra

Mr. Sanatan Panja

...for the State

Let the supplementary affidavit filed by the petitioner be kept with the records. A copy of the affidavit has also been served upon the learned counsel appearing for the respondents.

The petitioner challenges an order dated September 1, 2025, passed by the Sub-Divisional Officer, Bishnupur, Bankura. By the said order, the Sub-Divisional Officer directed the demolition of a two-storied building on L.R. Plot No. 782, J.L. No. 80, Mouza-Patit-Dommahal, Bankura.

This order is passed in compliance with the order dated March 25, 2021, passed by a Co-ordinate Bench of this Court, in WPA 6378 of 2021, wherein respondent no. 9 alleged unauthorised construction by the petitioner on the relevant plot.

It appears from page 42 of the writ petition that the petitioner, in fact, on August 13, 2018 applied to the Biur-Betur Gram Panchayat for a sanctioned plan for a two-storied building. The Panchayat, however, granted permission for the construction of only a single-storied building. Thereafter, the petitioner filed an application before the Pradhan of the Gram Panchayat on January 28, 2021, seeking permission to construct the second floor. No decision was communicated by the Panchayat on the said application. Despite this, the petitioner proceeded to construct the first floor of the building.

By the impugned order dated September 1, 2025, the Sub-Divisional Officer, Bishnupur, found that the first floor of the building was completely unauthorised and that certain portions of the ground floor were also unauthorised.

Learned counsel appearing for respondent no. 9, however, submits that the unauthorised portion on the ground floor has already been demolished, and therefore, respondent no.9 has no subsisting grievance against the petitioner.

This Court is of the view that, in light of Rule 30 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004, the petitioner was entitled to presume that her application seeking

sanction for the first floor had been granted by the Panchayat.

Rule 30 is quoted below:

“30. Right of applicant if the permission or refusal is not communicated within time-limit – If permission or refusal under sub-rule (1A) and sub-rule (5) of rule 27, rule 28 or rule 29, as the case may be, has not been communicated by the Gram Panchayat within the prescribed time limit, it shall be presumed the Gram Panchayat has accorded such permission and the applicant shall after an intimation to the Gram Panchayat can erect any structure or building conforming to the building plan and the site plan furnished by him along with the application.”

Learned counsel appearing for the State, submits that the presumption under Rule 30 can arise only when the application for a sanctioned plan has been made in the prescribed form.

While the submission appears sound in general, it is not applicable to the facts of the present case. The Panchayat granted permission to the petitioner for the construction of a single-storey building pursuant to his first application dated August 13, 2018. The petitioner’s subsequent prayer dated January 28, 2021, for the construction of the second floor should not be treated as a fresh or separate application; rather, it is a continuation of the initial application. Therefore, in my view, the petitioner was not required to submit another application in the prescribed form

seeking permission for the first floor, particularly when the Panchayat granted a sanctioned plan for a one storied building following her initial application.

This aspect was not considered by the Sub-Divisional Officer, Bishnupur, while passing the impugned order dated September 1, 2025. Accordingly, the said order is set aside. It shall be deemed that the first floor of the building has been constructed with due permission from the Panchayat, provided that it otherwise conforms to the relevant building rules of the Panchayat.

The petitioner shall deposit the requisite fees with the Panchayat within a period of three weeks from the date of this order.

Accordingly, **WPA 23750 of 2025** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)