

Form No. J.(2)
Item No. 17
Court No. 1
PG

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

HEARD ON: 05.12.2025
DELIVERED ON: 05.12.2025

CORAM:
THE HON'BLE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN

WPA(P) 530 of 2025
With
I.A. No. CAN 1 of 2025
Avijit Malik
Versus

State of West Bengal & Ors.

Appearance:-

Mr. Abhisekh Halder
Mr. Omar Faruk Gazi
Ms. Susmita Das
Ms. Madhurima Basufor the Petitioner

Mr. Sabyasachi Chatterjee
Mr. Rishabh Ahmed Khanfor the applicant in
IA. No. CAN 1 of 2025

Ms. Sonal Sinha
Mr. Gaurav Das
Mr. Sandipan Das for the State

Ms. Pramiti Bandyopadhyay
Mr. Debabrata Halderfor the respondent no. 7

Mr. Haradhan Banerjee, Sr. Adv.
Mr. Amitabha Pain
Mr. Partha Pratim Mukherjee
Mr. Vivek Triveni
Mr. Suresh Kr. Sahoofor the respondent no. 8

JUDGEMENT (ORAL):

PARTHA SARATHI SEN, J...:-

1. Parties are represented by their respective learned counsels.
2. By filing the instant writ petition, the petitioner has prayed for issuance of appropriate writ/writs against the respondent no.8 as well as against the other authorities preventing them from making any construction in and around Shri Shree Shree Chandi Makarchandi Mata Thakurani Mandir, Makardaha, P.S.-Domjur, District-Howrah.
3. At the time of hearing, learned counsel appearing on behalf of the writ petitioner at the very outset, took us to the various annexures to the instant writ petition. It is submitted that on the basis of a representation dated 12th November, 2025, as submitted by the writ petitioner with the respondent no. 7 authority, a notice was issued (annexure-P4) both to the writ petitioner and the respondent no. 8 and in such a meeting it was decided that the respondent no.8 authority will not proceed with any further construction till submission of necessary papers.
4. Drawing attention to pages-62-63 of the instant writ petition, it is submitted on behalf of the writ petitioner that despite issuance of two stop work notices dated 25.11.2025 and 27.11.2025, the respondent no. 8 was proceeding with the construction violating the order of the respondent no. 7 especially when the respondent no. 7 in his stop work notice dated 27.11.2025 clearly indicated that the building plan, as submitted by respondent no.8 is illegal.
5. It is thus, submitted that in view of the provisions of Section 23 of the West Bengal Panchayat Act, 1973, the respondent no. 8 is not entitled to proceed with the construction any further and therefore, writ of prohibition may be

issued against the respondent no. 8 from making any construction without obtaining any valid sanction from the respondent no. 7 authority and/or any other competent authority.

6. Learned counsel appearing on behalf of the respondent/State draws our attention to the report dated 5.12.2025, as submitted today, which is taken on record. It is submitted on behalf of the respondent/State that the jurisdictional IC has reported that the construction work is still going on.
7. Learned counsel appearing on behalf of the respondent no.7/Gram Panchayat submits before this Court that such construction is illegal since no sanction plan has been obtained from the said Panchayat.
8. Mr. Banerjee, learned senior counsel appearing on behalf of the respondent no. 8 however, disputed the contention of the writ petitioner as well as the respondent no.7 authority.
9. On careful perusal of the entire materials as placed before this Court and after giving due adherence to the submissions of the learned counsels for the contending parties, we are satisfied that sufficient materials have been placed before this Court that the respondent no. 8 are still going on with the construction work over which the respondent no.7 authority has issued the stop work notice.
10. In view of such, while disposing of the instant writ petition, we direct the respondent no. 8 not to raise any construction in and around the aforementioned temple land in violation of the provisions of West Bengal Panchayat Act, 1973.
11. It is further directed that the respondent no.10 authority shall ensure that no construction at the said premises at the behest of the respondent no. 8

and/or any other person takes place until the respondent no. 8 obtains a valid sanction plan from the respondent no. 7 authority.

12. Before parting with, we further direct the respondent no. 7 authority to take a decision with regard to the validity of the alleged construction in terms of the provisions of Section 23 of the said Act of 1973 and after giving an opportunity of hearing to all stakeholders and in the event while passing a reasoned order, the respondent no. 7 authority finds substance in the allegation of the writ petitioner, he shall forthwith take appropriate steps for demolition of the alleged illegal construction by resorting to the provision of Section 23(5) of the said Act of 1973.
13. We further permit the petitioner in I.A. No. CAN 1 of 2025 to participate in the process of hearing before the respondent no. 7 and the respondent no. 7 is further directed to give due adherence to the submission of the petitioner in I.A. No. CAN 1 of 2025 at the time of adjudication as to whether the alleged construction is at all illegal or not.
14. The respondent no. 7 and respondent no.10 authorities are directed to act on the server copy of this judgment and order.

I agree.

(PARTHA SARATHI SEN, J.)

(SUJOY PAUL, ACJ.)