

N.22S1

WPA 28306 of 2025

151/CL
12.12.25
SI-02
Ct.551
(S.R.)

Jagarani Sangha represented by its Secretary & Anr.
v.
The State of West Bengal & Ors.

Mr. Lakshminath Bhattacharya
Mr. Dipam Mozumder
Mr. Subhankar Bose ... for the petitioners.

Mr. Ayan Chandra Roy
Mr. Sutanu Chakrabarti ... for the State.

Mr. Sankar Paul
Ms. Sumori Shipra Roy
... for the respondent nos.11 and 12.

1. This writ petition takes exception to a notice dated December 4, 2025 issued by the Assistant Engineer, PWD, Bongaon Sub-division being Annexure P-4 to the writ petition whereby the said Assistant Engineer has requested the Sub-divisional Officer, Bangoan, North 24-Parganas to provide police assistance for the purpose of removing encroachment in terms of an order dated November 21, 2025 passed by a Coordinate Bench of this Court in CPAN 403 of 2025 arising out of WPA 21779 of 2024.
2. The order dated November 21, 2025 passed in CPAN 430 of 2025 (Brindaban Mondal & Anr. vs Urmi Dey Biswas & Anr) arising out of WPA 21779 of 2024 (Brindaban Mondal & Anr vs. State of West Bengal & Ors) *inter alia* observes as follows:

“Mr. Ayan Banerjee, learned Advocate appearing for the alleged contemnors files a report dated November 18, 2025 issued under the signature of the alleged contemnor no. 1 showing that, the disputed area has been encircled with a fencing (kanta taar) and contemnors have taken possession of the subject land but no further step has been taken. The report does not show that, the unauthorized and illegal construction has been demolished which is the consequential steps and which should have been done by the alleged contemnor no. 2 and/or by other appropriate State authority in accordance with law. The report is taken on record.”

3. CPAN 430 of 2025 had been filed alleging contempt of an order dated September 24, 2025 passed by a Coordinate Bench of this Court in WPA 21779 of 2024 directing *inter alia* as follows:

“In the event, the reasoned order confirms the illegal and unauthorized structure and the encroachment as alleged, the respondent no. 5 and/or the other appropriate State authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order but positively within a period of four weeks from the date of the said reasoned order to be passed, in accordance with law.”

4. It is noted that in terms of the said order dated September 24, 2025 the Sub Divisional Officer passed an order dated May 02, 2025 directing as follows:

“I have carefully examined all the issues stated above and came to the conclusion that:

(1) There is Seventeen feet open space for movement of vehicles from the PWD road to the house of Sri Brindaban Mondal & Sri Mrityunjoy Mondal. Moreover there is another 12' wide black top road of Bagdah Panchayat at the western side of the house of the petitioners.

So, the question regarding the problem of ingress & egress of the petitioners from their house does not arise at all.

(2) The claimed portion of the boundary wall, as written in the deposition of the petitioners, has been demolished. Now they can run their grocery shop without any obstacle. The problem of their livelihood is duly removed.

(3) If the remaining portion of the boundary wall is removed now the problem will raise at the time of Kali Puja, Durga Puja & other religious festivals between the petitioners & the private respondents which may lead to the breach of peace.

(4) The private respondents as well as local villagers have informed in writing that they will demolish the remaining portion of the boundary wall, Jagorini club room & others if any govt. project is taken up on the suit land of PWD.

In the light of the above observations I am of the opinion that the solemn order of the Hon'ble High Court as passed in WPA 21779/24 on 24/09/2024 is duly considered and complied with. ”

5. Mr. Bhattacharya, learned advocate appearing for the petitioners submits that the Assistant Engineer, Bongaon Sub-division had no authority to issue an order of demolition and

therefore the letter dated December 4, 2025 impugned in the present writ petition is wholly without jurisdiction. It is further submitted that the order dated May 2, 2025 passed by the Sub-divisional Officer, Bangoan, North 24-Parganas did not return a finding that there was any encroachment of government land by the petitioners or that there was any unauthorized construction by the petitioners, which required demolition. It is further submitted that the said order dated May 2, 2025 passed by the Sub-divisional Officer has already been challenged by the petitioners by filing an appeal before the District Magistrate, North 24-Parganas i.e. the respondent no.2 herein on December 10, 2025.

6. Mr. Bhattacharya also relies on an unreported decision of a Coordinate Bench of this Court in the case of Amit Dhara vs. State of West Bengal & Ors (WPA 16772 of 2024 decided on July 4, 2024).
7. Learned advocate appearing for the private respondent nos.11 and 12 submits that the order dated May 2, 2025 passed by the Sub-divisional Magistrate clearly returns a finding that there is an encroachment as well as unauthorized construction on government land and that despite such order being passed when

no steps were taken for removal of the encroachment and unauthorized construction, the private respondent nos.11 and 12 had approached this Court by initiating proceeding for contempt of the order dated September 24, 2024 passed by a Coordinate Bench of this Court in WPA 21779 of 2024. It is submitted that the said writ petition being WPA 21779 of 2024 had been instituted by the private respondent nos.11 and 12 as the petitioners had encroached upon government land and raised structure that impeded the private respondents' access to their shop.

8. It is further submitted that in the said contempt proceeding before this Court, a report was filed wherefrom it appeared that although the disputed area had been fenced by barbed-wire and possession thereof had been taken by the alleged contemnors in the said application, no step had been taken to remove the unauthorized and illegal construction. The Coordinate Bench of this Court had granted liberty to the alleged contemnors to carry out the directions of this Court made by the order dated September 24, 2024 and to file a compliance report on the next date. It is submitted that it is in such a situation that the respondent authority has

proceeded to remove the encroachment and the unauthorized construction and that any order staying such proceeding would amount to expressing a contrary view to what has already been expressed by a Coordinate Bench of this Court.

9. Learned advocate appearing for the State respondents hands up to Court a letter dated December 1, 2025 issued by the Sub-divisional Officer, Bongaon which has been referred to in the letter dated December 4, 2025. It is further submitted that the demolition proceeding has been postponed to December 30, 2025 and in support thereof copy of a letter dated December 11, 2025 written by Sub-Divisional Officer, Bongaon is handed up to Court. Copies of the letters dated December 01, 2025 and December 11, 2025 handed up to Court are retained with the records.

10. It is submitted by the learned advocate appearing for the State respondents that the date fixed for “eviction of encroachment (remaining portion)”, which was indicated in the letter dated December 4, 2025 (Annexure P-4 at page 69 of the writ petition) has been fixed on December 30, 2025.

11. A report dated December 11, 2025 of the

Officer-in-charge, Bagdah Police Station has also been handed up to Court. The said report is also taken on record.

12. Heard learned advocates appearing for the respective parties and considered the material on record.

13. The said letter dated December 01, 2025, has been written by the Sub-Divisional Officer, Bongaon to the Assitant Engineer, PWD Civil, Bongaon to take necessary steps *“as per an order passed by the Hon’ble Justice Aniruddha Roy of the Hon’ble High Court Kolkata on 21.11.2025 in connection with CPAN 430 of 2025 arising out of WPA 21779 of 2024”*.

14. It is therefore evident the said letter dated December 4, 2024 is not an order of demotion but is rather a step in execution of the order dated May 02, 2025 upon the order dated November 21, 2025 being passed by this Court in CPAN 430 of 2025.

15. As already indicated in the opening portion of this order, a Coordinate Bench of this Court while disposing of WPA 21779 of 2024 (Brindaban Mondal & Anr. v. The State of West Bengal & Ors.) on September 24, 2024 had directed that in the event the reasoned order to be passed by the relevant Sub-divisional

Magistrate confirmed existence of any *“illegal and unauthorized structure and the encroachment as alleged”*, then *“the respondent no.5 and/or the appropriate State authority would take all necessary and consequential steps to give an immediate effect to the said reasoned order”*. It is this order, which is required to be complied with. Since the purport of the letter dated December 4, 2025 (that is stated to have been issued in deference to the direction of this Court contained in the order dated November 21, 2025) is to actually comply with the order passed by this Court on September 24, 2024, therefore there can be no cause for this Court to interfere with the same in this proceeding. This is all the more so because it is only a consequential order passed in execution of the main order dated May 02, 2025 which in turn had been passed in deference to the order dated September 24, 2024 passed by this Court.

16. However, since the petitioners submit that the petitioners have challenged the basic order/main order passed by the Sub-divisional Magistrate on May 2, 2025 before the appellate authority, it would be open to the petitioners to approach the appellate authority i.e. the respondent no.2 herein and request for early hearing of the

petitioners' appeal. If the petitioners approach the appellate authority i.e. the respondent no. 2 for early hearing and disposal of the petitioners' appeal, the respondent no.2 shall dispose of the petitioners' appeal as expeditiously as possible, strictly, in accordance with law.

17. It is clarified that this Court has not gone into the merits of the petitioners' case and all points are left open to be decided by the appellate authority i.e. the respondent no.2 herein, strictly, in accordance with law.
18. This order shall not be treated as a mandate to either allow the petitioners' appeal or to reject it and the District Magistrate shall be free to take appropriate decision, strictly, in accordance with law.
19. Mr. Bhattacharya relied on an unreported decision of a Coordinate Bench of this Court in the case of Amit Dhara vs. State of West Bengal & Ors (WPA 16772 of 2024 decided on July 4, 2024) in support of his contention. The said judgment is of no aid to the petitioners. The same was delivered in the context of a situation where the basic/main order was under challenge and there was no order by this Court directing implementation of the basic/main order. The case at hand is entirely different. Here, the basic

order dated May 02, 2025 passed by the Sub-Divisional Officer, Bongaon has been directed to be implemented by this Court by the order dated September 24, 2025 as well as November 21, 2025 as already noticed above.

20. WPA 28306 of 2025 stands disposed of with the above observations. No costs.
21. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)