

D/L - 3
04/11/2025
Court. No. 2
Aritra

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side**

WPA 1959 of 2025

**Pintu Sarkar
Vs.
The State of West Bengal & Ors.**

Mr. Arijit Ghosh
Mr. Chiranjit Sarkar
Ms. Angana Rakshit
Ms. Sudipa Ghosh
Ms. Avisikta Das

....for the petitioner

Mr. Subir Kumar Saha, Ld AGP
Mr. Anirban Banerjee

....for the State

Mr. Sourav Sarkar

....for the respondent No.10

Petitioner alleges that the respondent authorities have not taken any steps for demolition of the illegal construction even after arriving at a conclusion that the private respondent has made unauthorised deviation while making such construction.

Pursuant the order dated October 28, 2025, the report of the concerned Block Development Officer dated November 3, 2025 has been filed in Court today, which is taken on record.

Mr. Saha, learned Additional Government Pleader submits that the concerned authority of the Panchayat after arriving at a conclusion that there is clear violation of Section 23 (1) of the West Bengal Panchayat Act, 1973 has forwarded the papers to the concerned Sub-Divisional Officer for taking necessary steps in

terms of Section 23 (5) of the Panchayat Act, 1973 as amended by the Amendment Act of 2017.

Faced with such situation the learned advocate appearing for the petitioner prays for leave to implead the Sub-Divisional Officer, Sadar, Jalpaiguri as a party respondent in this writ petition. As prayed for by the learned advocate for the petitioner leave is granted to the learned advocate on record of the petitioner to add the Sub-Divisional Officer, Sadar, Jalpaiguri as a party respondent in this writ petition.

Since the State is represented, there is no necessity to serve a copy of the writ petition upon the concerned Sub-Divisional Officer.

The learned advocate on record of the petitioner shall be obliged to serve a copy of the amended cause title of the writ petition upon the learned advocate for the State and the private respondent in course of this week.

The learned advocate appearing for the petitioner submits that no final decision has yet been taken by the concerned Sub-Divisional Officer.

The learned advocate appearing for the private respondent submits that the private respondent has already demolished the unauthorised construction alleged to have been made by the private respondent. He, therefore, submits that as on date there is no unauthorised construction on the property in question. He further submits that the construction of the private respondent was prior in time than the construction made by the petitioner and the construction made by the private respondent in accordance with the building which was sanctioned sometime in the year 2020.

The learned advocate for the petitioner disputes the aforesaid submission made by the learned advocate for the private respondent and submits that the unauthorised construction has not yet been demolished by the private respondent.

However, since the concerned authority of the Panchayat Samity has referred the matter to the concerned Sub-Divisional Officer, this Court is of the considered view that the interest of justice would be sub-served if the concerned Sub-Divisional Officer is directed to proceed in accordance with the provisions laid down under Section 23 (5) of the West Bengal Panchayat Act, 1973 as amended by the Amendment Act of 2017.

The Sub-Divisional Officer shall afford an opportunity of hearing to the petitioner and the private respondent or any other party who, according to the Sub-Divisional Officer may be a necessary party for deciding the issue referred to it and pass a reasoned order in accordance with law as expeditiously as possible but positively within a period of 4 weeks from the date of receipt of a server copy of this order.

It will be open to the respective parties to raise all points before the Sub-Divisional Officer and place materials in support of their respective contentions.

With the above observation and direction **WPA 1959 of 2025** stands disposed of.

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

(Hiranmay Bhattacharyya, J.)