

A730 15-01-2026
AKG
Ct. 15

WPA 4274 of 2025
Bodhisattwa Maiti & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Bibekananda Tripathy
...for the Petitioner
Mr. Amal Kr. Sen,
Ms. Ashima Das (Sil)
...for the State
Mr. Tanmoy Chatterjee,
Mr. Arijit Pradhan
...for the Private Respondents
Ms. Shreya Banerjee
...for Respondent No. 2

The petitioners have challenged a reference dated 2 January 2025 made by Nandigram Gram Panchayat No. 4 to the Sub-Divisional Officer, Haldia, Purba Medinipur, seeking appropriate steps for demolition of the alleged unauthorised construction purportedly raised by the petitioners.

Learned counsel appearing for the petitioners submits that no notice was issued by the Pradhan to the petitioners prior to arriving at the conclusion that the construction in question was unauthorised. It is further submitted that no inspection was conducted, as is evident from the impugned reference, which is liable to be set aside on that ground alone.

Learned counsel has drawn the attention of the Court to Section 23(5) of the West Bengal Panchayat Act, 1973. The relevant portion thereof is quoted below:

“(5) Where any new structure or new building or

any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the permission granting authority shall refer the matter to the Sub-Divisional Officer concerned who may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building or a portion of the building, as the case may be, by the owner within such period as may be specified in order and in default, the Sub-Divisional Officer may itself effect the demolition and impose a fine as may be specified by the State Government and recover the cost thereof from the owner as a public demand.”

A bare reading of the said provision makes it abundantly clear that the Pradhan of the concerned Panchayat is empowered to refer the matter to the Sub-Divisional Officer upon detecting an unauthorised construction. Upon such reference, the concerned Sub-Divisional Officer is required to take a final decision after affording an opportunity of hearing to the parties concerned.

In my view, while referring a matter to the Sub-Divisional Officer upon detection of an unauthorised construction, the Pradhan is not required to afford an opportunity of hearing to the affected parties. At that stage, the Pradhan is only required to arrive at a prima facie satisfaction regarding the existence of an unauthorised construction. Such satisfaction may be arrived at after conducting such enquiry, or otherwise, as the Pradhan

deems fit and necessary. Any findings recorded upon such enquiry are only prima facie in nature. The final determination as to the legality of the construction in question is to be made by the concerned Sub-Divisional Officer, before whom the parties shall be afforded an opportunity of hearing.

Needless to mention, in the present case, the concerned Pradhan has referred the matter to the Sub-Divisional Officer after conducting an enquiry. Before the Sub-Divisional Officer, it shall be open to the petitioners to challenge the validity of the enquiry report. The concerned Sub-Divisional Officer shall take appropriate steps strictly in accordance with law and only after affording the petitioners an opportunity of hearing.

Accordingly, **WPA 4274 of 2025** stands disposed of.

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.)