

Item No.12
27.04.2026
Court. No. 12
GB

FMA 314 of 2026
With
CAN 1 of 2026

Purnendu Banerjee
Vs.
The State of West Bengal & Ors.

*Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das,
Mr. Abul Mullick*

...for the Appellant.

*Mr. Soumya Nag,
Mr. Rajdeep Sengupta*

...for the Private Respondents.

1. Despite service, none appears on behalf of the respondents.
2. The appellant is aggrieved by an order dated January 20, 2026, passed in WPA 27574 of 2025. By the order impugned, the learned court dismissed the writ petition on the ground that permission was not required from the panchayat authorities for construction of a boundary wall.
3. His Lordship was of the view that all the conditions under Rule 19(3) of the West Bengal Panchayat (Administration) Rules, 2004 must co-exist and only then, permission from the gram panchayat would be necessary for construction of a boundary wall.
4. Mr. Mukherjee, learned advocate for the appellant submits that construction is going on. The contention of the appellant before the learned Single Judge was that the panchayat authority should act

on the basis of the law, by taking into consideration whether the constructions of the respondent nos.6 and 7 were in accordance with the provisions of the Panchayat Act, or not.

5. Mr. Nag submits that the construction has been raised in accordance with the sanction plan.
6. In our view, the issue as to whether there has been any unauthorized construction on the premises in question, is to be decided by the permission granting authority, i.e., Chandi Gram Panchayat. The appellant had approached the panchayat authority for necessary action. It is an admitted fact that no action had been taken in terms of Section 23 of the West Bengal Panchayat Act, 1973.
7. Under such circumstances, the appeal and the application are disposed of, thereby, allowing the appellant to make a comprehensive representation before the Chandi Gram Panchayat with regard to his allegation in respect of the alleged construction and the panchayat authority shall decide the issue in accordance with law by following the procedure mentioned hereinbelow:
 - a) An inspection shall be conducted. Such inspection shall be held in the presence of the appellant and the respondent nos. 6 and 7. An advance notice of the inspection shall be served upon the appellant and the respondent nos.6 and 7 and on all

other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.

- b) If it is found on preliminary inspection that there may be reasons to believe that the construction was without any sanction or in deviation and was continuing, the authorities may take such interim measure, by stopping such construction.
- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties. The question of title, possession etc. shall not be decided by the panchayat authorities. The issues to be decided would be whether the construction is in accordance with a sanctioned plan and the building rules or not.
- e) A hearing shall be given to the appellant and the respondent nos.6 and 7. The parties must also be allowed to furnish their written objection/version to the report and adduce oral and documentary evidence in support of their contentions

before the competent authority. All points raised by either party, will be decided.

- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in accordance with law, and Section 23(5) of the Panchayat Act, will be complied with.

8. The order passed is not adverse to the interest of any of the parties as the entire issue is left to the decision of the concerned gram panchayat. The order impugned is set aside.
9. The entire exercise shall be completed within a period of four months from the date of communication of this order.
10. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)