

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 5022 of 2026

**Rajib Lochan Bag
Versus
The State of West Bengal & Ors.**

For the petitioners	:	Mr. Sanat Kumar Roy Mr. Atanu Basu
For the State	:	Mr. Sovan Mukherjee
For the Municipality	:	Mr. Subhasis Bandopadhyay
Heard on	:	23.06.2026.
Judgment on	:	23.06.2026.

Raja Basu Chowdhury, J (Oral):

1. The instant writ petition has been filed challenging non sanctioning of a residential building plan notwithstanding the status of the petitioner's application is being shown as complete. According to the petitioner although the petitioner had applied for grant of sanction and though the scrutiny thereof is complete long back, the application and the proposal for sanction has not been disposed of.

2. When the matter was moved on 1st April 2026 the learned advocate for the municipality had submitted that it was not the obligation of the municipality to sanction the building plan and it is the Secretary, ULB, Urban Development Department, Government of West Bengal who is competent to decide on the sanction of the building plan. This Court, however, taking note of the provisions of the West Bengal Municipal Act, 1993 (in short the said Act) and having noted that it was ordinarily the obligation of the municipality to consider the application for grant of sanction, had directed the Executive Officer of the Bardhaman Municipality to file a detailed report before this Court as to why the petitioner's application has been held back. Following the above, a report had been filed by the Executive Officer dated 27th April 2026. In the aforesaid report, it has been claimed that a master plan was sanctioned by the office of the Bardhaman Municipality in the year 2008 making different sub plots of a big plot/plots and accordingly, those small plots were sold out to different persons and a common space was kept for the benefit of the residents which is identified as community space. The aforesaid report further reveals certain purchasers had constructed their buildings on such space by obtaining sanction in offline mode. But since, the petitioner's plot is a part of the community space, as such, no plan could be issued.
3. Since, the aforesaid stand taken by the municipality was not supported by any document nor copy of any master plan had been

disclosed, this Court had directed the Executive Officer of the concerned municipality to be personally present before this Court along the records and explain how the municipality could retain the particular space / plot of land as community space.

4. Pursuant to the aforesaid, the Executive Officer is personally present in Court. He has no explanation to offer as to why his report dated 27th April 2026 indicated that the plot where the petitioner seeks to construct the building was mentioned as community space or why the same was retained for the benefit of the other residents. On the contrary, a copy of fresh report has been filed stating that the matter has been reconsidered and the petitioner had been directed to submit a fresh plan and that the petitioner has since submitted the plan.
5. The Learned advocate for the petitioner on the other hand has placed before this Court a response issued by the State Public Information Officer, Bardhaman Municipality under the Right to Information Act, 2005 dated 21st February 2022. To morefully appreciate the same, the response is extracted hereinbelow:

“From : State Public Information Officer

Burdwan Municipality

To: Md. Guljar Hossain

Nazrulpally, Burdwan

Sub : Application for informationi under RTI Act, 2005

Dear Sir,

In reference to your application dated 08.02.2022 this is to inform you that as per office record no registered deed was found in the name of Burdwan Municipality in respet of RS

Plot No. 898, LR Plot No. 2487, under Mouza Ichlabad, J.L.No. 75, Dist, Purba Bardhaman”

6. Having regard to the above disclosure and the sequence of events narrated, this Court finds that the conduct of the municipality to withhold the proposal for sanction of building plan of the petitioner is improper. The municipality ought not to have sat tight over the sanction building plan for years together. The explanation provided by the Executive Engineer in identifying the property of the petitioner as a space meant for the community without the same having the backing of the municipality, is also not appropriate to say the least. No document has been disclosed to show how the said plot has been identified for community space. Be that as it may the response to the RTI application demolishes the case of “community space”.
7. Having regard to the above, I am of the view that the municipality must forthwith decide on the petitioner’s application/proposal for sanction which is pending before the municipality. Decision in this regard must be taken within a period of 10 working days from the date of communication of this order.
8. In the light of the above, though the explanation offered by the Executive Officer of the Bardhaman Municipality is not found to be adequate, however, having regard to the direction passed above, the matter is put to rest and the personal appearance of the Executive Engineer stands dispensed with, on an undertaking by him that he

shall not commit such mistake in future and shall be sincere in his work.

9. With the above direction and observations, the writ petition is disposed of.

10. All parties shall act on the basis of server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)

**Saswata
A.R. (Court)**