

In The High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

**Motion
(Assigned)**

Judgment (2)

Moumita

Court No. 38

Daily List Item No. 1

Present :

The Hon'ble Justice Aniruddha Roy

WPA 5165 OF 2026

Basudeb Mondal

Vs.

The State of West Bengal & Ors.

For the Petitioner : **Mr. Sounak Bhattacharya, Adv.
Mr. Chandra Nath Sarkar, Adv.
Mr. Sounak Mandal, Adv.**

For the State : **Mr. Nirmalya Biswas, Adv.
Mr. Bhakti Prasad Das, Adv.**

For Kanchan Mondal : **Mr. Rabiul Islam, Adv.
Mr. Md. Hasanuz Zaman, Adv.
Mr. Md. Zeeshanuz Zaman, Adv.**

Heard on : **11.03.2026**

Judgment on : **11.03.2026**

[In Court]

Aniruddha Roy, J.:

1. Affidavit-of-service, filed in Court today, is taken on record.
2. This is a specially assigned writ petition. The urgency shown to this Court is on the basis of a communication dated **February 19, 2026** issued by the Assistant Engineer PWD, **Annexure p-20 at page 113** wherefrom it

appears that on **March 10, 2026** and **March 11, 2026** demolition of the structure would be carried out. Today is **March 11, 2026**. Hence, the matter has been taken up by fixing it at top of the list.

3. Mr. Sounak Bhattacharya, learned advocate with Mr. Chandra Nath Sarkar, learned advocate and Mr. Sounak Mandal, learned advocate appears for the petitioner.
4. Mr. Rabiul Islam, learned advocate with Mr. Md. Hasanuz Zaman, learned advocate and Mr. Md. Zeeshanuz Zaman, learned advocate appears for the complainant, who are not parties in the instant writ petition.
5. Mr. Nirmalya Biswas, learned advocate with Mr. Bhakti Prasad Das, learned advocate appears the respondent nos. 1 to 5.
6. Through the instant writ petition the petitioner has challenged the impugned reasoned order dated **November 25, 2025** passed by the respondent no. 2 in exercise of his power under **Sub-Section 4 to Section 10** of the **West Bengal Highways Act 1964** (for short, the **1964 Act**) whereunder the alleged structure constructed by the writ petitioner has been found to be illegal and unauthorized and accordingly the jurisdictional authority of PWD has been directed to take steps in accordance with law. Following the said direction of the appellate authority the said notice for demolition dated **February 19, 2026** was issued.
7. The matter has a checkered history both on facts and on the legal proceedings. The writ petitioner has been identified by the jurisdictional authority as an alleged encroacher by causing an unauthorized and illegal

structure on a portion of PWD land. The matter went up to **Section 10 Sub-Section 4** stage of **1964 Act** when the impugned order dated **November 25, 2025** was passed.

8. The impugned order refers to a joint field enquiry report in respect of Mouza Taranagar, **L.R. Dag No. 3688** (for short, the land). Mr. Sounak Bhattacharya, learned advocate appearing for the petitioner submits that no joint field enquiry report was ever provided to the writ petitioner and as such the petitioner did not have any opportunity to look at it or to deal with it and the impugned order was passed.
9. Mr. Sounak Bhattacharya, learned advocate then refers to a representation of the writ petitioner **dated March 2, 2026 Annexure p-21 at page 115** to the writ petition and submits that there was no joint inspection held at all, though the petitioner was present at the given point of time when the joint inspection was fixed.
10. In course of hearing today, the complainant has produced a bunch of documents which contains, *inter alia*, a letter of B.L. & L.R.O. dated **November 20, 2025** written to the Assistant Engineer PWD, a letter dated **November 20, 2025** issued from the office of the Revenue Inspector addressing the B.L. & L.R.O. along with a sketch map and attendance sheet dated **November 20, 2025**. A copy of the said bunch of document is made over to Mr. Chandra Nath Sarkar, learned advocate appearing for the petitioner in Court today. A copy of the same bunch of document is also taken on record.

11. From the said same bunch of documents it appears that the petitioner **Mr. Basudeb Mondal** was present in the joint inspection held on **November 20, 2025** and the relevant two attendance sheets contain his signature against **serial no. 3** therein. From the above documents it appears that the writ petitioner had attended the joint inspection, however the same is denied by the writ petitioner.
12. In view of the above, to resolve the controversy a further joint inspection shall be held in presence of the jurisdictional B.L. & L.R.O., jurisdictional Assistant Engineer, PWD and the petitioner on **March 17, 2026** and **March 18, 2026** both days at 12:00 noon at the relevant land as suggested by the parties and the minute of the joint inspection shall have to be specifically signed by the petitioner, the B.L. & L.R.O. and the Assistant Engineer, PWD. The joint inspection shall be held on the basis of the **existing relevant land records**. The said existing relevant land records shall also be produced at the time of the said joint inspection. Then the B.L. & L.R.O. shall prepare a detail report along with a sketch map with reference to the **existing relevant land records** and shall submit the said report before the respondent no. 2, the authority under **Section 10 Sub-Section 4 of the 1964 Act** positively **within seven days** from the date of completion of the said joint inspection. The same bunch of document of joint inspection report shall also be submitted to the petitioner by obtaining a proper receipt from the petitioner which shall be signed by the petitioner, within the said period of **seven days**.

13. The respondent no. 2 thereafter shall fix the hearing of the appeal under **Sub-Section 4 to Section 10 of the 1964 Act** within the **next seven days** from the date of service of the said joint inspection report upon the petitioner and shall come to its logical conclusion by granting an opportunity of hearing to the petitioner in accordance with law and pass its reasoned order positively **within three weeks** from the first date of the hearing of the appeal. The reasoned order shall be communicated to the petitioner immediately.
14. It is made clear that, this Court has not gone into the merits of the objections and counter objections of the parties in this writ petition and the appellate authority shall decide the appeal on its own merits in accordance with law.
15. In the event, the encroachment is found to be confirmed on the land in the order of the appellate authority, all consequential steps shall be taken forthwith in accordance with law.
16. With the above observations and directions the order impugned dated **November 25, 2025** along with the communication for demolition dated **February 19, 2026** issued by the respondent no. 5 **at page 113** to the writ petition stands **set aside** and **quashed**.
17. Learned advocate appearing for respondent nos. 1 to 5 shall immediately communicate the gist of this order to his clients forthwith, if necessary, over telephone and any other mode, so that the work of demolition shall not take place.

18. Accordingly, this writ petition being **WPA 5165 of 2026** stands ***allowed*** to the above extent, without any order as to costs.
19. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)