

11.02.2026
Ct. No. 15
Sl. No.15
skg

W.P.A. 28764 of 2025

Sri Sujit Khan
Vs.
The State of West Bengal & Ors.

Mr. Sandipan Banerjee,
Mr. Tanmoy Mukherjee,
Ms. Utsa Dutta

...for the petitioner

Mr. Razzak Hossain,

...for the State

Mr. Debayan Sen,
Mr. Soumalya Chakraborty,

...for the respondent no.5

Mr. Subir Banerjee,
Mr. Abhilash Sinha Roy,

...for the respondent no.9

The petitioner appears to be consistent in his pursuit to seek demolition of the residential building constructed by his neighbour, respondent no. 9. This Court need not recite the applications previously filed by the petitioner against respondent no. 9, nor the orders passed thereon.

The relevant facts are that the allegations of the petitioner were ultimately considered by the Pradhan, Mahanad Gram Panchayat. By an order dated 9th June, 2025, the Pradhan found that the petitioner's allegations that the residential building of respondent no. 9 was constructed without a sanctioned plan were without merit. It was specifically observed that a

sanctioned plan had been issued by the Panchayat on 4th April, 2017, and upon inspection, the building was found to have been constructed in accordance with the sanctioned plan.

The Pradhan further noted that the deposit of the building sanction fees by respondent no. 9 was not reflected in the accounts of the Gram Panchayat. It was also observed that respondent no. 9, aged about 67 years, has been in possession of the land since birth and resides there with his family. The Pradhan concluded that the building plan approval granted on 4th April, 2017, was valid, and the non-reflection of the sanction fees in the accounts of Mahanad Gram Panchayat amounted to a mere irregularity. Thereafter, the matter was referred to the concerned Sub-Divisional Officer in terms of Section 23(5) of the West Bengal Panchayat Act, 1973.

The Sub-Divisional Officer, upon receipt of the reference, on 25th September, 2025, also came to the finding that the building of respondent no. 9 had been constructed following a valid sanctioned plan and was in conformity with the same.

By filing the present writ petition, the petitioner challenges both the order of the Pradhan dated 9th June, 2025, and the order of the Sub-Divisional Officer dated 25th September, 2025.

Learned counsel for the petitioner contends that no sanctioned plan was ever granted by the Panchayat and that, in earlier proceedings, the Panchayat did not disclose the existence of a valid sanctioned plan before this Court. Reference is made to Rule 18 of the West Bengal (Gram Panchayat Administration) Rules, 2004, which mandates issuance of a receipt for the payment of sanction fees. Since no such receipt has been produced, it is submitted that it must be presumed that no sanctioned plan was ever granted in favour of respondent no. 9.

Learned counsel appearing for the Panchayat and for respondent no. 9, on the other hand, submits that the Panchayat duly sanctioned a plan on 4th April, 2017, and the residential building was constructed in 2018 in accordance with the sanctioned plan. It is further submitted that upon payment of fees under Rule 18 of the Rules of 2004, an application is processed in accordance with Rule 27 of the Rules of 2004. In the present case, the Panchayat duly processed the application under Rule 27 and sanctioned the plan. Mere non-reflection of the sanction fees in the Panchayat accounts does not invalidate the sanction granted. Reliance is also placed on illustration (e) of Section 114 of the Evidence Act, 1872, to presume that the Panchayat

did, in fact, grant the sanctioned plan in favour of respondent no. 9.

After hearing the parties, this Court does not find any ground to interfere with the concurrent findings of the Panchayat Authority as well as the Sub-Divisional Officer. Both authorities, after due consideration of the documents and hearing the parties, concluded that a valid building plan had been sanctioned in favour of respondent no. 9. These concurrent findings cannot be overturned by this Court in the exercise of writ jurisdiction. A writ court does not function as an appellate authority over decisions taken under Section 23(5) of the West Bengal Panchayat Act, 1973.

Section 114 of the Indian Evidence Act, 1872 empowers the Court to presume the existence of certain facts having regard to the common course of natural events, human conduct, and public and private business.

Illustration (e) appended to Section 114 states that the Court may presume that “judicial and official acts have been regularly performed.”

This provision embodies a well-settled principle of administrative and evidentiary law—acts done by public authorities in their official capacity are presumed to have been done in accordance with law,

unless the contrary is proved. The presumption is rebuttable, but the burden lies on the person who alleges irregularity or illegality.

Non-reflection of fees in the accounts does not automatically lead to the conclusion that no sanction was granted, especially when the competent authority itself records that a sanctioned plan existed and was acted upon.

Once the official authorities record that a sanctioned plan was granted, the burden shifts to the petitioner to prove that no plan was sanctioned, or the sanction was fabricated or obtained by fraud, or the statutory procedure was wholly bypassed.

A presumption under Section 114(e) cannot be displaced by mere conjectures or suspicions; it must be rebutted by cogent and convincing evidence.

A mere absence of a receipt or an entry in the accounts does not discharge this burden, particularly when the petitioner does not produce any positive evidence of illegality or collusion.

Accordingly, this Court is not inclined to entertain the challenge raised by the petitioner, and **WPA 28764 of 2025** stands dismissed.

(Kausik Chanda, J.)