

19.05.2026
rc/ct.no.15
Item No.06+07

WPA No. 18631 of 2025
Gopal Sana
Versus
The State of West Bengal & Ors.
And
WPA No. 2448 of 2026
Suman Sana & Ors.
Versus
The State of West Bengal & Ors.

Mr. Nirmalendu Bera
Ms. Tanim Nandy ..for the petitioner
(in WPA No. 18631 of 2025)

Mr. Biswarup Chatterjee ..for the petitioner
(in WPA No. 2448 of 2026)

Mr. Nirmalendu Bera
Ms. Tanim Nandy ..for the Respondents
(in WPA No. 2448 of 2025)

Mr. Debjit Mukherjee
Mr. Kaustav Bhattacharya
Ms. Priyanka Jana
Ms. S. Agarwal ...for the respondent no.5

Report submitted by the Panchayat is taken on record.

It appears from the report that the alleged construction covers a total area of 95.49 square metres and total carpet area of 95.09 square feet. The height of the construction of 5.33 metres. At this juncture it shall be useful to reproduce Section 23(1) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as "the Act of 1973").

"23. Control of building operations. – (1) No person shall erect any new structure or new building or make any addition to any structure or building having plinth area of

not more than 150 square metres and height not more than 6.5 metres in any area within the jurisdiction of a Gram Panchayat except with the previous permission in writing from the Gram Panchayat.”

Therefore it is crystal clear that previous permission in writing of the Gram Panchayat is necessary for construction of new structure or building or addition thereto having the plinth area of not more than 150 square metres and height not more than 6.5 metres. The construction in question falls within the said parameters and prior sanction of the Panchayat is required for the purpose.

It has been admitted by the private respondents in WPA No. 18631 of 2025 that the said construction has been raised without obtaining previous sanction from the Panchayat.

Learned counsel for the said private respondents submits that the property was purchased by the predecessor in interest of both the parties sometime in 1941 with a structure standing thereon and the private respondents have only effected repairs to the existing structure. No sanction was required for the said construction prior to promulgation of the Act of 1973 and the subsequent repairs effected thereto also does not call for any sanction.

It appears from the copy of the title deed produced by the private respondents herein that no such structure

is recorded in the schedule of the property mentioned therein. In fact, there is not a scrap of paper on record that suggests that the alleged construction was raised prior to promulgation of the Act of 1973.

Pursuant to an earlier order of this Court, the District Engineer, Howrah Zilla Parishad took up the issue of unauthorized construction and upon hearing both the parties, recorded that admittedly there was no sanctioned plan of any building on the plots of land. The parties were directed to approach the concerned Gram Panchayat with all valid papers for sanction of their building in terms of Section 23(1) of the Act of 1973. This Court fails to understand under what authority the matter was forwarded to the Panchayat for regularization of the alleged construction since there is no such provision under the Act of 1973. The order impugned passed by the Pradhan, Thanamakua Gram Panchayat on September 08, 2025 records that the construction raised by the private respondents in WPA No. 18631 of 2025 and petitioners in WPA No. 2448 of 2026 is illegal/unauthorized and has been raised without obtaining sanction from the Panchayat. The Pradhan referred the matter to the Sub-Divisional Officer, Howrah for taking necessary steps in terms of the Act of 1973.

In view of the fact that the construction in question is admittedly unauthorized/illegal and was raised without obtaining prior sanction of the Panchayat, there is no

illegality or irregularity in the order impugned which requires interference by this Court.

There being no provision under the law for post facto regularization of an illegal/unauthorized construction, there is no alternative but to demolish the same in accordance with law.

Accordingly, the Sub-Divisional Officer, Howrah Sadar is directed to take necessary steps for demolition of the alleged construction pursuant to the communication made by the Pradhan, Thanamakua Gram Panchayat within six weeks from the date of communication of this order, in accordance with law.

The Sub-Divisional Officer, Howrah Sadar is at liberty to seek police assistance for the demolition process, if required.

Accordingly, the writ petitions being WPA No. 18631 of 2025 and WPA No. 2448 of 2026 are disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)