

ML 111
06.05.2026
Court. No. 12
GB/CP

MAT 937 of 2025
With
CAN 1 of 2025

Ananda Gopal Saha
VS
The State of West Bengal & Ors.

*Mr. Sudip Ghosh,
Mr. Dilip Kumar Maiti,
Mr. Bidish Ghosh,
Ms. Maitryee Maiti*

... for the Appellant.

*Mr. Avinabo Patra,
Mr. Partha Sarathi Das,
Mr. Shah Md. Umer Edne Sadhique,
Ms. Purnima Panda,
Ms. Swarnali Ghosh*

... for the Respondent No.9.

1. The appeal is allowed. The order impugned is set aside on the following grounds:-
 - a) The learned Single Judge failed to take into consideration the relevant provisions of the West Bengal Panchayat Act, 1973 and the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.
 - b) The alleged construction was commercial or at least partly commercial as per the report of the Block Development Officer which was called for by the learned Judge. The order was passed in ignorance of the report.
 - c) The gram panchayat does not have the authority under the law to allow sanction for construction of commercial buildings or buildings used for

commercial purpose, except in terms of Rule 31 of the 2004 Rules.

d) The construction is of G+3 although, the panchayat can only allow permission for construction of a structure or building having plinth area of not more than 150 square metres and height of not more than 6.5 meters.

e) Rule 26 of the 2004 Rules provides that if the construction is not proposed on a homestead land, the panchayat authority will withhold permission. The land is classified as viti and non-commercial. Rule 27(1)(A) of the 2004 Rules provides that, a gram panchayat shall not accord permission for construction of a new structure or allow addition and alteration to an existing structure, having a plinth area of more than 150 square meters and height of more than 6.5 meter without vetting the building plan and/or site plan by the panchayat samiti or the Zilla Parishad having jurisdiction.

2. Under such circumstances, the learned Judge only proceeded on the basis of the sanction accorded by the panchayat authorities and came to the finding that the building was not unauthorized. The challenge in the writ petition was the sanction itself which was granted by the authority, upon non-compliance of the provisions of law.
3. Under such circumstances, the appeal and the application are allowed. The order impugned is set

aside. The appellant will make a proper representation before the concerned gram panchayat with the grounds seeking cancellation of the plans and the panchayat authority shall hear both the parties and pass a reasoned order. The decision shall be taken independently and strictly in accordance with law. If the sanction is withdrawn or found to have been wrongly issued, steps shall be taken in accordance with law in respect of the said construction.

4. However, it is made clear that, if the respondent nos.9 and 10 are in a position to prove that the respondent nos.9 and 10 were misled into filing the application before the panchayat authorities for sanction and the panchayat authorities did not follow the procedure, in that event, the said respondents can proceed against the panchayat authorities for compensation/damages before the appropriate forum.
5. Accordingly, the appeal and the connected application are disposed of.
6. Urgent xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)