

06.01.2026
Sl No.311
Ct. No.15
S.A.

WPA 16808 of 2025

Dr. Ajoy Kumar Biswas

-vs-

The State of West Bengal & Ors.

Mr. Milan Chandra Bhattacharjee, sr. adv.
Ms. Sulagna Bhattacharya
...for the petitioner

Mr. Biswajit De
Mr. Arindam Mitra
...for the State

Mr. Gautam Lahiri
...for respondent no.4

Mr. Bharat Chandra Simai
Mr. Somesh Panja
...for respondent nos.5 & 6

Heard the parties.

Section 23(5) of the West Bengal Panchayat Act, 1973, prior to the introduction of the West Bengal Panchayat (Amendment) Act, 2017, which came into effect on 9 November 2017, read as follows:

“(5) No appeal shall lie against the order of the appellate authority referred to in sub-section (4).”

By virtue of the aforesaid amendment, the substituted sub-section (5) reads as follows:

“(5) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the permission granting authority shall refer the matter to the Sub-Divisional Officer concerned who may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building or a portion of the building, as the case may be,

by the owner within such period as may be specified in order and in default, the Sub-Divisional Officer may itself effect the demolition and impose a fine as may be specified by the State Government and recover the cost thereof from the owner as a public demand.”

Quite interestingly, with the introduction of the West Bengal Panchayat (Amendment) Act, 2017, Section 23(6) was not deleted. Consequently, an apparent incongruity arises between Sections 23(5) and 23(6) of the West Bengal Panchayat Act, 1973.

Section 23(6) reads:

“(6) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the authority may, after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building by the owner within such period as may be specified in the order and in default the authority may itself effect the demolition and recover the cost thereof from the owner as a public demand.”

While sub-section (5) mandates that a Panchayat Pradhan refer the matter to a Sub-Divisional Officer upon detection of an unauthorized construction for demolition, sub-section (6) authorizes the Panchayat Pradhan to demolish such unauthorized construction independently. Therefore, the retention of sub-section (6) effectively permits a Panchayat Pradhan to carry out demolition without

any reference to the Sub-Divisional Officer, rendering the reference under sub-section (5) redundant.

In view of the importance of the matter, the learned Advocate General is requested to appear and address this Court on the issue.

The advocate appearing for the State shall communicate this order to the learned Advocate General.

List this matter on January 13, 2026 under the heading "To Be Mentioned."

(Kausik Chanda, J.)