

July 30, 2026
Sl. No.7
Court No.1
s.biswas

WPA(P) 572 of 2025

Anupam Acharya and others
vs.
The State of West Bengal and others

Ms. Somoshree Saha
... for the petitioners
Mr. Ajit Kumar Mishra, AGP
Mr. Madhu Jana
Mr. Gopal Krishna Sarkar
Ms. Puja Sonkar
... for the State

The present public interest litigation (PIL) has been preferred praying for issuance of necessary direction upon the respondents '*not to change the nature and character of the lands in question from Smashan (burning ground/burning ghat) and Bhagar (Dumping Ground and pasture land) in any manner and withdraw, cancel rescind any decision for the proposed Community Toilet on the said land being R.S. and L.R. Plot No.216 area 4.08 acres, classification shashan and R.S. and L.R. Plot No.217 area 4.25 acres of Mouza – Khagrabani, J.L. No.478, Block – Contai-II, Police Station – Contai, District – Purba Medinipur, by infringing the fundamental rights on the lands in question*'.

Ms. Saha, learned advocate appearing for the petitioners submits that the present writ petition has been preferred for the welfare of the villagers at large and to prevent the respondents from raising illegal construction

in plot no.217. The Plot nos.216 and 217 are adjacent to each other. The former plot is being utilized as a *Shamshan* (burning ghat) and the latter plot is classified as a *Bhagar*, which is used as a dumping ground for carcasses of pet animals. The respondents, during the pendency of the proceedings, were illegally constructing toilet at plot no.217.

She further submits that the petitioners earlier preferred a PIL being WPA (P) 500 of 2024, which was disposed of by an order dated 16th January, 2025. Alleging non-compliance of the said order, a contempt application was also filed and the same is pending.

Records reveal that the present writ petition was first heard on 7th January, 2026 when upon perusal of the petition, a report was called for from the respondent authorities and an interim order was passed to the effect that *‘till the last day of February, 2026, status quo as on date be maintained over the Smashan (Burning Ghat), where allegedly a community toilet is being constructed, in view of the order passed by a Co-ordinate Bench of this Court in WPA (P) 500 of 2024 on 16.01.2025’*. Pursuant to such direction, a report has been filed by the Block Development Officer, Deshpran Development Block to which an exception has also been used by the petitioners.

Mr. Mishra, learned Additional Government Pleader appearing for the State respondents submits that it is for

the benefit of the people at large that the land which is used as *Shamshan* at plot no.216 has been segregated from plot no.217. The earlier writ petition was disposed of by order dated 16th January, 2025, wherein it was categorically directed that *'the authorities shall ensure that the burning ghat is preserved and it will be advisable to have a boundary wall around the burning ghat so that the health centre will not be affected on account of the cremation done in the burning ghat'*. In compliance of such direction, a detailed plan and estimate was prepared for construction of boundary wall around the *Shamshan* and the Bhagar. Subsequent thereto, the District Magistrate, Purba Medinipur was approached seeking necessary financial sanction and thereafter the Secretary, Panchayat & Rural Development Department, Government of West Bengal was requested to place the requisite funds for construction of the boundary wall in compliance with the earlier order of this Court.

Mr. Mishra further submits that the sketch map annexed to the report would reveal that plot nos.216 and 217 are being segregated. At the corner of plot no.217, there is a mandir. In the same plot, there is an existing health sub-centre and a road for granting access to the said health sub-centre from the main road has been earmarked. For the benefits of the villagers a community

toilet is being constructed adjacent to the health sub-centre.

Placing reliance upon the exception to the said report, Ms. Saha, learned advocate for the petitioners, in reply, submits that it is unscientific to construct any health sub-centre or any toilet in the *Shamshan* where dead bodies are burnt inasmuch as it may create health issues for the people at large.

We have heard the learned advocates for the respective parties and considered the materials on record.

The record of rights annexed to the writ petition would reveal that plot no.217 classified as Bhagar is comprising an area of 1.25 acres and plot no.216 classified as *Shamshan* is comprising an area 4.08 acres, which is approximately more than 12 bighas. In plot no.217, there is an existing health sub-centre and for the benefit of the people at large, a road has been earmarked for granting access to the people from the main road and a community toilet is being constructed also for the benefit of the villagers.

Records would reveal that in the earlier PIL, a Co-ordinate Bench of this Court directed the authorities to ensure that the burning ghat is preserved and it was also observed that it would be advisable to have a boundary wall around the burning ghat so that the health centre

would not be affected on account of the cremation done in the burning ghat.

It is not a case that the respondents are illegally attempting to utilize the land in question for any private interest. Both the health sub-centre and the community toilet would cater to the needs of the villagers at large. In view thereof, we are unable to grant the relief, as prayed for in the present writ petition.

It is, however, made clear that the area earmarked for *Shamshan* in plot no.216 and the area, excluding the area occupied by health sub-centre, access road, community toilet and mandir, in plot no.217 shall be preserved by the respondents.

With the above observations and directions, the writ petition being WPA (P) 572 of 2025 is disposed of.

There shall be however no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, A.C.J.)