

Form J(2)
 JPD Sl.No. 24 & 25
 MD
 Court no. 10

In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 1315 OF 2026

Manik Paul

Vs.

**The Principal Secretary through
 Government of West Bengal & Ors.**

With

WPA 1064 OF 2026

Fatik Barman

Vs.

The State of West Bengal & Ors.

**For the Petitioner in
 WPA 1315 of 2026**

: Mr. Sandip Guha Roy, Adv
 Mr. Ananda Paul, Adv.
 Mr. Tanay Mandal, Adv.

**For the State in
 WPA 1315 of 2026**

: Mr. Ashoke Kumar Singhi, Adv.
 Mr. Tuhin Kumar Roy, Adv.

**For the Respondent no. 11
 in WPA 1315 of 2026**

: Ms. Esha Acharya, Adv.
 Ms. Rajashree Mukherjee, Adv.
 Ms. Ipsita Saha, Adv.

For the Petitioner in : Ms. Esha Acharya, Adv
WPA 1064 of 2026 Ms. Rajashree Mukherjee, Adv.
 Ms. Ipsita Saha, Adv.

For the State
in WPA 1064 of 2026 : Ms. Radhika Agarwal, Adv.
 Mr. Tuhin Kumar Roy, Adv.

For the Respondent no. 5
in WPA 1064 of 2026 : Mr. Sandip Guha Roy, Adv.
 Mr. Ananda Paul, Adv.
 Mr. Tanay Mandal, Adv.

Heard on : August 21, 2026.

Judgment on : August 21, 2026.

[In Court]

Aniruddha Roy, J. :

Both these writ petitions are taken up for consideration together pursuant to the earlier order dated **August 12, 2026**.

In Re: WPA 1315 of 2026

1. Affidavit-of-service, filed in Court today is taken on record.
2. Mr. Sandip Guha Roy, learned Advocate with Mr. Ananda Paul, learned Advocate and Mr. Tanay Mandal, learned Advocate appears for the petitioner.
3. Mr. Ashoke Kumar Singhi, learned Advocate with Mr. Tuhin Kumar Roy, learned Advocate appears for the State.

4. Ms. Esha Acharya, learned Advocate with Ms. Rajashree Mukherjee, learned Advocate and Ms. Ipsita Saha, learned Advocate appears for the respondent no. 11/private respondent.
5. None appears for the Municipality, despite notice.
6. The petitioner alleges unauthorized construction at the subject premises in violation of the prevailing municipal law at the behest of the private respondent no.11.
7. The petitioner has submitted a representation dated **July 10, 2026, Annexure p-3 at page 31** to the writ petition but the same has not been considered.
8. Ms. Esha Acharya, learned Advocate appearing for the private respondent no. 11 submits that, her client has duly sanctioned building plan which is valid till **February 6, 2028**.
9. In view of the above, following directions are passed:

(a) The petitioner shall serve a copy of this writ petition along a copy of today's order upon the respondent no. 7 forthwith;

(b) The respondent no. 7 and/or any responsible experienced officer of his office who shall be deputed by the respondent no. 7 upon issuing a prior notice of **at least three working days**

upon the petitioner and the private respondent

shall hold a physical inspection of the alleged unauthorized construction and shall prepare a report. The report then shall be submitted to the petitioner and the private respondent.

(c) This exercise shall be carried out by the respondent no. 7 positively within **two weeks** from the date of the communication of this order.

(d) The respondent no. 7 then after serving a **seven days'** notice of hearing upon the petitioner and the private respondent and after granting them an opportunity of hearing shall decide the said representation dated **July 10, 2026**, but the same shall not travel beyond the scope of the case made out in the writ petition and the representation by passing a reasoned order in accordance with law. This exercise shall be positively carried out and completed by the respondent no. 7 within **three weeks** from the date of the inspection to be held.

(e) In the event, the reasoned order confirms illegal/unauthorized construction, then the respondent no. 7 shall take all consequential steps but positively within **two weeks** from the date of the said reasoned order to remove such unauthorized and illegal construction at the premises in accordance with law.

10. It is made clear that, this Court has not gone into the merits of the rival contentions of the parties. Petitioner and the private respondent are free to urge whatever points they wish to urge before the respondent no. 7 by relying upon whatever records and documents they want to rely upon.
11. It is made clear that, this order shall not create any right or equity either in favour of the petitioner or in favour of the private respondent.
12. In the event, the construction is found to be illegal and not in accordance with law there shall be no compromise to demolish and remove unauthorized construction forthwith.
13. In the event, any assistance is sought for, the jurisdictional police authority shall provide all necessary assistance to the respondent no. 7.
14. Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.
15. With the above observations and directions, this writ petition **WPA 1315 of 2026** stands **disposed of**, without any order as to costs.

In Re: WPA 1064 of 2026

1. Affidavit-of-service, filed in Court today is taken on record.
2. Ms. Esha Acharya, learned Advocate appears for the petitioner.
3. Ms. Radhika Agarwal, learned Advocate appears for the State.
4. Mr. Sandip Guha Roy, learned Advocate appears for private Respondent.
5. None appears for the Municipality, despite notice.
6. Petitioner alleges unauthorized and illegal construction at the subject premises at the behest of the private respondent no. 5.
7. Ms. Esha Acharya, learned Advocate appearing for the petitioner has drawn attention of a communication of the Municipality dated **May 8, 2026 at page 75** to the writ petition, the content is quoted below:

'It has been reported and found upon enquiry by the Cooch Behar Municipality that despite earlier directions issued by the Municipality as well as the order passed by the Hon'ble High Court in connection with unauthorized construction activities, you have again resumed construction work at the concerned premises.

Previously, vide Municipal Memo No. Estt/5072/CBM-25 dated 22.12.2025, you were directed to stop all unauthorized construction and related commercial activities until compliance with all legal and municipal requirements. Despite such directions, it has been found during recent inspection and enquiry that construction activities have been restarted from 29.04.2026 onwards.

Such continuation of construction work is a clear violation of:

WPA 1315 of 2026 with WPA 1064 of 2026

A.Roy, J.

1. *Directions issued by the Cooch Behar Municipality;*
2. *Order of the Hon'ble High Court passed in WPA No. 2122 of 2025;* 3. *Municipal building rules and applicable laws.*

Therefore, you are hereby directed once again to immediately stop all construction activities at the said premises with immediate effect until further orders and without obtaining proper permission and compliance under law.

Please note that if any further unauthorized construction activity is found continuing at the site the Municipality shall be compelled to initiate appropriate legal and statutory action against you including demolition proceedings and other actions as permissible under law, without any further notice.

This may be treated as MOST URGENT.'

8. Learned Advocate for the petitioner submits that, despite the construction having been found unauthorized and illegal, till date the private respondent has not removed it or dismantled it. There has been no challenged made by the private respondent to the above finding of the Municipality.
9. Mr. Sandip Guha Roy, learned Advocate appearing for the private respondent no. 5 refers to a previous decision of the Municipality dated **December 22, 2025** and submits that, pursuant to direction of the co-ordinate Bench in a previous writ petition the Municipality came up with a finding that, there has been no illegal construction at

the behest of the private respondent no. 5 at the premises. Subsequently, the Municipality has come up with the later finding dated **May 8, 2026 at page 75** to the instance of writ petition, as referred to above, holding illegal construction at the premises, at the behest of the respondent no. 5. After receiving this communication dated **May 8, 2026** a legal notice has been served dated **May 14, 2026** upon the Municipality, at the behest of the private respondent no. 5.

10. Per contra, Ms. Esha Acharya, learned Advocate appearing for the writ petitioner has referred to **Annexure p-13 at page 76** to the writ petition and submits in reply to a notice served under Right to Information Act, the Municipality by its communication dated **June 8, 2026** has further confirmed the illegal construction at the subject premises at the behest of the private respondent no. 5. She further has referred to a document **Annexure p-6 at pages 43 and 44** to the writ petition and submits alleged unauthorized and illegal construction has also been confirmed by the Cooch Behar Municipality.

11. After considering the rival contentions of the parties and the materials on record, this Court finds that, the latest and subsequent finding of the concerned Municipality dated **May 8, 2026 at page 75** to the writ petition clearly shows an unauthorized and illegal construction at the premises at the behest of the of the private

respondent no. 5 and despite notice the private respondent no. 5 has failed and neglected to remove and dismantle the said illegal construction. The said decision of the Municipality has not been challenged.

12. In view of the above, the petitioner shall forthwith serve a copy of this writ petition along with a copy of today's order upon the Chairman of Cooch Behar Municipality. The Chairman upon receiving a copy of today's order shall forthwith take steps to demolish and remove the alleged unauthorized construction at the premises on the basis of the said communication dated **May 8, 2026 at page 75** to the writ petition but positively **within a week** from the date of communication of this order.
13. In the event, any assistance is sought for, the local police authority shall render all assistance to the Chairman of the Municipality to remove the unauthorized and illegal construction at the premises.
14. Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.
15. With the above observations and directions, this writ petition **WPA 1064 of 2026** stands **disposed of**, without any order as to costs.
16. Parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)