

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C)115 of 2015

1. Shri Sunil Chandra Bhattacharjee,
son of late Satish Chandra Bhattacharjee
2. Shri Debabrata Bhattacharjee,
son of Shri Sunil Chandra Bhattacharjee,
both are residents of GBP Hospital Road,
P.O. Kunjaban, District : West Tripura,
Agartala, PIN-799006
.....Petitioners

- V e r s u s -

1. The Chief Executive Officer,
Agartala Municipal Corporation,
Agartala City Centre, P.O. Agartala,
District : West Tripura
2. The Executive Officer,
Agartala Municipal Corporation,
North Zone, Kunjaban,
P.O. Kunjaban, Agartala
3. Smti. Sabitri Saha,
daughter of late Nityagopal Saha,
resident of GBP Hospital Road,
P.O. Kunjaban, Agartala
.....Respondents

BEFORE
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioners	: Mr. S. Chakraborty, Advocate
For the respondents	: Mr.K.K. Pal, Advocate
Date of hearing, Judgment and order	: 13.10.2015
Whether fit for reporting	: NO

JUDGMENT & ORDER (ORAL)

Heard Mr. S. Chakraborty, learned Advocate appearing for the petitioners as well as Mr. K.K. Pal, learned counsel appearing for Agartala Municipal Corporation-respondents. None appears for the respondent No.3 despite due notice from this court.

2. The grievance of the petitioner falls within a short compass. According to the petitioner, the respondent No.3 has constructed a residential building adjoining the residential plot of the petitioner without keeping the statutory space as required under Tripura Municipal Act and the rules made thereunder.

3. Even the petitioner has expressed his doubt whether any plan has been sanctioned by Agartala Municipal Corporation at all. The petitioners filed a representation to the Executive Officer of the Agartala Municipal Corporation, North Zone. The said Executive Officer issued a show cause notice to the respondent No.3 on 06.07.2011 directing her to stop construction for violating the provisions of Tripura Municipal Act, 1994. Despite such prohibitive order, the respondent No. 3 did not stop the construction and she continued with the said

illegal construction. As a result, the petitioner again approached the said officer of Agartala Municipal Corporation on 15.07.2011. Again a show cause notice was issued to the respondent No.3 stating that if she did not stop the construction, Agartala Municipal Corporation could take step against her including demolition of the construction as provided under the law. Even thereafter, the petitioner filed another representation to Agartala Municipal Corporation on 21.02.2014. But no action whatsoever has come forth from Agartala Municipal Corporation in respect of the said illegal construction, as yet.

4. Mr. S. Chakraborty, learned counsel appearing for the petitioner has further submitted that if this way Agartala Municipal Corporation acts, no lawful means would be available with the citizen to arrest the mushrooming of the illegal construction. In this case, by their manifest inaction, Agartala Municipal Corporation virtually abetted the respondent No.3 to continue with the illegal construction as alleged.

5. Mr. K.K. Pal, learned counsel appearing for Agartala Municipal Corporation has submitted that

notices were issued but further action however was not taken. In the reply filed by Agartala Municipal Corporation a strange stand has been taken. They have asserted that :

“However, further action would be taken if the Hon'ble Court pass appropriate order in this regard.”

6. When some authority is saddled with duty to take action in accordance with law, it is not expected that the said authority would take due action only after a citizen approached the court and the court passed the order. If the authority does not pass the order which is due, such inaction by itself is a breach of law. However, Mr. Pal, learned counsel for Agartala Municipal Corporation has assured that in future such laxity or inaction will not be shown. Due action in accordance with law would be taken without any delay. On placing trust on the said statement, the petitioner is directed to file a fresh representation with a copy of this order to the Executive Officer, North Zone, Agartala Municipal Corporation and a copy of which shall be forwarded to the Municipal Commissioner within a period of 15 days from the day of receipt of the certified copy of this order.

If the action at law is not taken by the Municipal Corporation, the petitioner is granted liberty to approach this court for taking stern action for failing in discharging the statutory duty.

7. After filing of such representation by the petitioner, the Executive Officer shall take appropriate action in terms of law for violation as alleged with steadfast promptitude. Due action shall be taken within a period of 2(two) months from the day of receipt of the representation from the petitioner.

8. With this observation and direction, this writ petition stands allowed to the extent as indicated above.

There shall be no order as to costs.

JUDGE

Sabyasachi.B