

S/L. 7.
11.11.2019
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**Calcutta High Court
In The Circuit Bench At Jalpaiguri
Appellate Jurisdiction**

WPA 616 of 2019

Surendra Gupta and others
-Vs.-
The Siliguri Municipal Corporation & Others

Mr. Saunak Bhattacharya,
Mr. D. Das
... for the petitioners.

Mr. Kumar Shantanu
...for Siliguri Municipal Corporation

Supplementary affidavit filed in
Court is taken on record.

The petitioners were given
sanctioned plan by the Siliguri Municipal
Corporation to effect construction on
premises. Copies of the sanctioned plan
filed in Court.

The petitioners were issued a first
notice of unauthorized construction on
10.10.2017 and were asked to appear
before the authorities along with
supporting documents. The petitioners
duly attended the hearing offered by the
Siliguri Municipal Corporation undertook
to demolish the entire unauthorized
construction made outside the
sanctioned plan at the said premises.
Several notices were issued to the

petitioner on 01.11.2017 and 24.11.2017 to demolish unauthorized construction as admitted by the petitioners before the Siliguri Municipal Corporation. Despite whereof the letters annexed to the writ petition indicate that only a truss in the front portion of the aforesaid building has been demolished and substantial illegal construction in the back portion of the buildings are still existing.

It was also found that some portions of the front of the building have been let out for parking vehicles on commercial basis.

The writ petitioners would argue before this Court that they ought to have been served a formal notice and the proceedings ought to have been drawn up in terms of the West Bengal Municipal Corporation Act, 2006.

This Court notes that the petitioners have not only admitted unauthorized construction but also acted in furtherance of such admission by demolishing unauthorized construction in front portion of the building. Since there is admission of illegality and an attempt made to remedy the illegality

even in part, the question of any violation of natural justice or part of the Municipal Corporation therefore does not and cannot arise.

The petitioners shall within a period of seven days from today demolish all and every other unauthorized construction in the premises in question.

The concerned engineer of the Siliguri Municipal Corporation shall within the next 48 hours visit the said premises upon due notice to the petitioners and indicate the portions that are required to be demolished further to comply with the sanctioned plan strictly.

In the event the petitioners do not effect such demolition within the time period stipulated herein above, the Siliguri Municipal Corporation is hereby directed to effect such demolition.

The Commissioner of Police, Siliguri Police Commissionerate shall depute sufficient force costs whereof shall be recovered from the writ petitioners' regular municipal tax bills to assist the SMC to carry out demolition.

The Siliguri Municipal Corporation shall serve a copy of this order on the

Commissioner of Police, Siliguri Police Commissionerate and it is expected that the Commissioner of Police, Siliguri Police Commissionerate shall render all assistance and co-operation to the Siliguri Municipal Corporation.

It is made clear that the aforesaid order shall apply to all four buildings constructed by the petitioners at their premises at Plot No. 92 (Hal), R. S. Khatian No. 430, Mouza Dabgram, J. L. No. 2 under Bhakti Nagar Police Station, Ward No. 43.

With the aforesaid directions, the writ petition is disposed of.

Photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis.

(Rajasekhar Mantha, J.)