

Ct. 10
Item Nos.07
18.09.2020
(suvendu)

**WPA 6802 OF 2020
(W.P. 6802 (W) OF 2020)**

**Bir Bahadur Blon
Vs.
Kalimpong Municipality & Ors.**

(Via Video Conference)

Mr. Anand Bhandari
.....for the petitioner

The petitioner's grievance is against an illegal construction said to have been made by the private respondent.

On 2nd July, 2020, a "stop work" notice have been issued by the Kalimpong Municipality being the concerned Municipality according to the petitioner.

There is no scope of passing any mandatory order for demolition unless the petitioner's complaint is taken for consideration by the concerned Municipality and decided in terms of the provisions of the West Bengal Municipal Act, 1993 and the Rules framed thereunder.

The petitioner says that under Section 218 of the 1993 Act, the Municipal authorities are bound to initiate legal proceedings and complete the same against the petitioner in respect of the alleged illegal

construction since they have issued “stop work” notice after being prima facie satisfied.

Since notice for “stop work” has already been given, it prima facie demonstrates that the concerned Kalimpong Municipality has taken note of the petitioner’s complaint and the construction complained of.

The Municipal authorities are directed to complete the enquiry as to the legality of the construction, alleged by the petitioner to be illegal, within a period of six months from date after giving reasonable opportunity to the petitioner and the private respondent to represent their case. The Municipal authorities shall be free to decide as to the manner of hearing owing to the present pandemic situation but shall adhere to overall compliance of the principles of natural justice.

The Municipal authorities and the respondent no.4 shall see that there is no occasion of breach of peace during this pandemic situation concerning the alleged illegal construction.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of without any order as to costs. Since no affidavits have been called for, the allegations made in the writ petition are deemed to have not been admitted.

(Arindam Mukherjee, J.)