

DL. 7
15.10.2020
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**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side
(Through video conference)**

W.P.A. No. 22419 of 2019

**Board of Managers,
Sankalpa-IV, Apartment
Owners Association & Anr.
-Vs.-**

The State of West Bengal & Ors.

Mr. Debabrata Saha Roy,
Mr. Avik Ghatak
... for the petitioners

Mr. Rajarshi Dutta,
Ms. Sharmistha Ghosh,
Mr. Swarbhanu Bhattacharya,
Mr. Victor Chatterjee
...for the respondent nos. 2 and 3

The petitioners comprise of the Board of Managers of an apartment block, which has been constructed by the respondent no. 2 for residential purpose. The petitioner no. 2 is the secretary of the said board. The grievance of the petitioners is that contrary to the assurance given by the respondent no. 2 for making over the fire safety licence to the petitioners as soon as the same is received from the appropriate authority, the respondent no. 2 has not taken the requisite steps in that regard. The immediate apprehension of the petitioners is that the

building is in a vulnerable condition in respect of fires and that the respondent no. 2 seeks to shift the responsibility of obtaining the No-Objection-Certificate/license to the petitioners.

Learned counsel appearing for the petitioners places several letters written by the respondent no. 2 from March 29, 2018 onwards, which enclose repeated assurances that the respondent no. 2 will arrange for the “No-Objection” certifying that the concerned apartment block is safe from fire hazards. Counsel assails the last communication dated November 05, 2019, which states that the responsibility of complying with the fire safety norms lies with the concerned apartment owners’ association as the site has already been handed over to the association and that the WBIDFCL (respondent no. 2) has no further role in that regard.

Counsel places a letter dated March 11, 2019 received from the office of the West Bengal Fire and Emergency Services, which states that on inspection it has been revealed that the fire panel board is not working properly and that the occupants of the building are at a high risk for the other deficiencies in that respect.

Counsel for the petitioners prays that the respondent no. 2 be restrained from proceeding in terms of the impugned letter dated November 05, 2019.

Counsel appearing for the respondent no. 2/WBIDFCL, places several facts which prevented the said respondent from taking necessary steps for obtaining the No-Objection-Certificate from the State Fire Services Department. Learned counsel submits that the possession of the flats were handed over to the petitioners on April 18, 2018, after which the respondents took steps for inviting bids for installation and maintenance of the fire fighting machinery and equipment in the building. A tender was floated in January, 2019 and the lowest bidder selected. However, the selected bidder could not commence the work. It is also submitted that a further tender was initiated in March, 2020 and thereafter in July, 2020 for the same purpose. Counsel assures that the No-Objection-Certificate will be made over to the petitioners within a maximum period of six months as soon as the tender process is completed and the requisite certificate given by the State Fire Services Department. It is submitted that the unusual delay in the process

has been caused due to pandemic and further that the respondent no. 2 has taken steps to rectify and replace the existing fire fighting equipment in the building after the letter issued by the Fire Services Department on March 11, 2019.

On hearing learned counsel appearing for the parties, this Court is of the view that due weightage should be given to the assurance given on behalf of the respondent no. 2 that the requisite No-Objection-Certificate will be made over to the petitioners within a reasonable period of time taking into account the completion of the tender process and the inspection, which would be necessary for ascertaining the safety of the existing fire fighting system in the building. The Court has noted the submission of counsel for the respondent no. 2 that of the fire fighting equipment was done after 11th March, 2019.

This Court is also alive to the fact that for obtaining the No-Objection-Certificate, the Fire and Emergency Services Department of the State of West Bengal would be required to render all possible assistance to the respondent no. 2.

W.P.A. 22419 of 2019 is disposed of with a direction on the respondent no. 2 to make over the requisite No-Objection-Certificate in relation

to the fire safety standards of the building in which the petitioners reside within a period of six months from date.

Respondent no. 4 is directed to give all possible support to the respondent no. 2 in the matter of giving No-Objection-Certificate.

(Moushumi Bhattacharya, J.)