

Sl No.9
21.02.2020.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 289 of 2020
Smt. Tinni Sarkar (Roy) & Another
-versus
Siliguri Municipal Corporation & Ors.**

Ms. Smita Sinha(Mitra)
... for the petitioners.

Mr. Soumya Dasgupta
Mr. Bijay Bikram Das
... for the respondent nos. 8 & 9.

The grievance of the petitioners is that the Siliguri Municipal Corporation is charging a hefty amount for mutating a property in their name.

According to the petitioners they applied for mutation before the Siliguri Municipal Corporation.

The petitioners time and again visited the Corporation praying for mutation. But due to the heavy demand made by the Corporation, which the petitioners are unable to meet, the mutation is yet to be effected.

According to the petitioners the mutation fee is Rs. 200/- as per Section 121 of West Bengal Municipal (Finance and Accounting) Rules, 1999 as the consideration money or value of the property exceeds Rs. 50,000/-.

The petitioners have also relied upon a memo issued by the Joint Secretary, Department of Municipal Affairs, Government of West Bengal being no. 236/MA/)/C-4/3R-6/2015 dated May 4, 2015 whereby all the Municipalities have been directed to ensure strict compliance of Rule 121 of the West Bengal Municipal (Finance and Accounting) Rules, 1999 in relation to imposition of Mutation Fees in the Municipalities, and also to restrain the Municipality

from levying any other fees/charges such as processing fees, development fees etc. in mutation cases.

The petitioners submit that according to the aforesaid memo dated May 4, 2015 the property in question ought to have been mutated upon payment of Rs. 200/- only and nothing more is liable to be paid by the petitioners for the purpose of effecting the mutation.

The petitioners made a representation before the Commissioner, Siliguri Municipal Corporation on January 2, 2020 highlighting their grievances. The petitioners submit that the said representation has not been considered by the Municipal Corporation till date.

The learned advocate representing the Municipal Corporation submits that Section 131(5) of the West Bengal Municipal Corporation Act, 2006 specifically mentions that the fee for mutation may be determined by the regulations. The respondents submit that the regulation is published by the State Government and the Municipal Corporation acts according to the direction of the State Government.

The respondents, however, have not been able to state the correct figure of the amount which the petitioners are required to deposit for the purpose of effecting mutation.

As it appears that the petitioners have already filed a representation before the Commissioner, Siliguri Municipal Corporation highlighting their grievance which is pending consideration, no useful purpose will be served by keeping the writ petition pending.

The same is accordingly disposed of by directing the respondent no. 2 being the Commissioner, Siliguri Municipal Corporation to consider the representation made by the petitioners, strictly in accordance with the relevant Rules/Guidelines/Circulars, after giving an opportunity of hearing to the petitioners within a period

of eight weeks from the date of communication of a copy of this order and to pass a reasoned order and communicate the same to the petitioners within a fortnight thereafter.

It is made clear that this Court has not gone into the merits of the case and all points are left open to be decided by the said respondent at the time of consideration of the representation of the petitioners.

WPA 289 of 2020 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)