

29.11.2021  
Sl. No.23  
sn

**W.P.A. No. 18719 of 2019**  
**Prabhat Goswami**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Arunava Ghosh  
Mr. Anindya Lahiri  
Mr. Samrat Dey Paul ..for the petitioner

Mr. Salil Kr. Maiti  
Mr. Partha Pratim Roy  
Ms. Pinki Saha  
..for the respdts. 5-11

Mr. Golam Mustaffa  
Mr. T. Samanta  
Mr. S. Sardar ..for the respdt.3

It is alleged that the order of demolition impugned, has been passed in violation of the principles of natural justice. The order does not reflect that the field enquiry report was supplied to the petitioner before the order impugned was passed, directing demolition. Mr. Ghosh further submits that the learned advocate was not authorised by the petitioner to make any concession or admission before the Sub-Divisional Officer and that the said admission could not have been made before the authority with regard to construction of an extra floor without permission. This Court is of the opinion that if there has been any wrong recording of the submission or the concession of the learned Advocate was not authorized by the petitioner, then the petitioner should approach the adjudicating authority who has recorded such admission of the petitioner made through the

learned Advocate. An application to that effect must be filed before the authority who had recorded such concession.

Under such circumstances, this writ petition is disposed of granting liberty to the petitioner to approach the adjudicating authority against such recording of admission and concession of the Advocate in the order. If such application is made, the concerned authority shall proceed in accordance with law and pass necessary orders.

If the SDO, Haldia upon hearing the parties, comes to the conclusion that the petitioner could make out a case of wrong recording of the admission/concession and that the learned Advocate was not authorized to make any concession, in that case, the matter must be heard afresh and disposed of within 3 weeks from such application of the petitioner. At the time of fresh hearing, the enquiry report prepared pursuant to the enquiry held on July 17, 2019, shall be supplied to the petitioner. An opportunity shall be given to the petitioner to file an exception to the report.

It is found that the admission was made by the petitioner and the learned Advocate has been authorized to make such submission, the SDO Haldia will pass such an order and communicate the same to the petitioner and other respondents and the order impugned will attain finality. Such application shall be

made within seven days from date upon serving a copy upon the respondents. No coercive measures shall be taken in respect of the construction, till the disposal of such application within the aforementioned period by the Sub Divisional Officer, Haldia. The application if filed by the petitioner, shall be disposed of within a period six weeks from the date of communication of this order.

This writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**