

12.04.2021
Item No.26
Crt.No.11
K.B.

**M.A.T. 1672 of 2019
with
CAN 1 of 2019
(Old No. 11455 of 2019)**

**Ashok Pramanik & Anr.
-Versus-
Shila Karmakar & Ors.**

Mr. Amitava Ghosh
Mr. Surojit Dutta
.... For the appellants.

Mr. Syamal Kumar Das
Ms. Smita Pal
.... For the writ petitioner.

Mr. Gautam Lahiri
.... For the Respondent Nos. 3 to 6.

The Respondent Nos. 5 and 6 to the writ petition have preferred the instant appeal challenging the order dated October 30, 2019 passed by an Hon'ble Single Judge in W.P. No.19310(W) of 2019.

By the order impugned the Board of Councillors, Serampore Municipality was directed to take steps in accordance with law in respect of the writ petitioners' representation dated September 16, 2019 within a stipulated time frame after giving an opportunity of hearing to the writ petitioners or his authorised representatives and the private respondent nos. 5 and 6/appellants herein or their authorised representatives and thereafter communicate its decision to the parties.

Being aggrieved against the said order, the instant appeal has been preferred.

This Court by an order dated March 26, 2021 granted a further opportunity to the Board of Administrators to comply with the order dated March 11, 2021 passed in this appeal whereby the Administrators of Serampore Municipality was directed to take a decision as directed by the order dated October 30, 2019 passed in W.P. No.19310(W) of 2019.

Today when the matter is taken up for hearing, the learned advocate for the Municipality files a report enclosing various documents including a copy of the order passed by the Executive Officer, Board of Administrators, Serampore Municipality dated April 1, 2021 under Section 218 of the West Bengal Municipal Act, 1993.

Learned advocate for the appellants submits that Section 218(3) of the West Bengal Municipal Act, 1993 provides a right of appeal against an order passed under Section 218 of the said Act and the appellant seeks to avail of such statutory remedy as, according to the appellant, the order dated 01.04.2021 cannot be sustained in the eye of law.

We have heard the learned advocates for the parties and have considered the materials on record.

During the pendency of the instant appeal, a reasoned order under Section 218 of the 1993 Act has been passed on the representation of the writ petitioner dated

16-09-2019. The appellant herein cannot be permitted to assail the reasoned order dated 01.04.2021 in the instant appeal, which is directed against an order passed by a Hon'ble Single Judge in W.P. No.19310(W) of 2019.

Since a remedy by way of an appeal has been provided under Sub-Section 3 of Section 218 of the West Bengal Municipal Act, 1993 and the appellants want to avail such remedy, the instant appeal being MAT 1672 of 2019 along with the CAN 1 of 2019 are disposed of by giving liberty to the appellants herein to avail of the remedies provided under Sub-section 3 of Section 218 of the 1993 Act.

We however make it clear that we have not entered into the merits or demerits of the order dated April 1, 2021 and the appropriate forum will be free to decide all points raised before it upon being approached in accordance with law.

Needless to mention that the copy of the reasoned decision has already been served upon the private parties.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Hiranmay Bhattacharyya, J.) (Subrata Talukdar, J.)

