

S/L 2  
19.01.2022  
Court. No. 19  
GB

WPA 342 of 2022

Prasanta Mondal & Anr.  
Vs.  
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Sudipto Maitra,*  
*Mr. Vijay Verma,*  
*Mr. Dwaipayan Biswas.*

*...for the Petitioners.*

*Mr. Jahar Dutta,*  
*Mr. Bipin Ghosh.*

*...for the State.*

*Mr. Sandipan Banerjee,*  
*Mr. Ankit Sureka.*

*...for the H.M.C.*

Affidavit-of-service filed in Court today be kept with the record.

This writ petition has been filed challenging the order dated December 30, 2021 passed by the Assistant Engineer, Howrah Municipal Corporation. By the said order the 'as made' plan of the petitioners was not permitted. The unauthorized constructions were not treated to be minor deviations and the petitioners were directed to remove the unauthorized structures.

According to Mr. Maitra, learned advocate appearing on behalf of the petitioners, the said order is cryptic and was passed without granting an opportunity of hearing to the petitioners, although this Court had directed by an order dated July 13, 2021 that the petitioners shall be given a

hearing at the time of consideration of the 'as made' plan for regularization of minor deviations.

Admittedly, the hearing was not given.

Mr. Banerjee, learned advocate appearing on behalf of the Howrah Municipal Corporation submits that the demolition order which was passed earlier was pursuant to a direction of this Court and in respect of which a contempt application is pending.

In the earlier round of litigation when the demolition order was challenged before this Court, this Court had directed that in view of the provisions of the Howrah Municipal Corporation Act, the petitioners should be given a chance to approach the authority and pray for regularization of the alleged minor deviations.

This Court does not express any opinion with regard to the earlier order passed by this Court and with regard to the contempt application, which shall follow in its course. However, as an opportunity of hearing had been directed to be given to the petitioners, this Court is of the opinion that the order impugned has been passed in violation of the principles of natural justice and it is liable to be set aside.

The contention of Mr. Banerjee that two additional floors without any plan cannot be treated as a minor deviation is not gone into at this stage. All these issues shall be decided at the appropriate stage. The merit of the order is not being considered only because the order was passed

without granting a hearing to the petitioners. The order is being set aside.

Let the matter be relegated to the appropriate authority of the Howrah Municipal Corporation in terms of the earlier order passed on July 13, 2021 and the authority shall give a hearing to the petitioners. In view of this situation which has been cropped up and the pendency of the contempt application, this Court is of the opinion that the decision should be arrived at by the authority within January 25, 2022. Let the hearing be held on January 21, 2022 at 12 noon. The petitioners and/or their legal representatives will be heard by the concerned authority on that date. No further notice shall be given to the petitioner. This order shall be treated as the notice.

Accordingly, the 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 learned advocate's communication.

**(Shampa Sarkar, J.)**