

08.03.2022
Court No. 19
Item no.07
CP

WPA No. 1045 of 2022

Dynax Apparel Pvt. Ltd. & anr.
Vs.
The State of West Bengal & ors.

Mr. Kallol Basu
Mr. Suman Banerjee
.....for the petitioners.

Mr. Raghunath Chakraborty
Mr. M. Ahmed
....for the municipality.

Mr. Arif Ali
....for the respondent nos. 6 to 10.

Mr. Manas Kundu
Mr. Debabrata Mondal
....for the State.

The writ petition has been filed challenging inaction on the part of the Maheshtala Municipality (hereinafter referred to as 'the municipality'), in taking steps pursuant to the complaint lodged by the petitioners against the respondent nos. 6 to 10, in respect of the alleged unauthorized constructions raised by the said respondents.

The court had directed the municipality to file a report. The Officer on Special Duty of the municipality has filed a report dated March 7, 2022 from which it appears that the municipality had visited the locale. A 'stop work' notice was issued upon discovering some unauthorized constructions.

The municipality did not have any records with regard to grant of sanction for such construction on the plots in question. A copy of the 'stop work' notice is filed before this court. The same is taken on record.

Mr. Ali, learned advocate appearing on behalf of the respondent nos. 6 to 10, submits that the said respondents had approached the concerned municipality long time ago for permission to make such construction. That no new construction had been made. That the dispute between the parties are private in nature and this court must not entertain the writ petition. That the petitioners are using pressure tactics and are trying to influence the pending suit between the parties.

Having considered the rival contentions of the parties, this court is of the opinion that the matter should be relegated for a decision and for determination of the disputes by the Board of Councillors of the municipality.

As the municipality has already found that there are some unauthorized constructions and has already initiated a proceeding by issuance of a 'stop work' notice, this court is of the view that the disputes raised by the petitioners and the respondent nos. 6 to 10 must be determined and adjudicated in accordance with the procedure stated hereinbelow:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioners and the respondent nos. 6 to 10.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of the inspection shall be prepared along with the sketch map, indicating the extent of deviation, if any.
- d) Such report shall be handed over to the petitioners as also the respondent nos. 6 to 10.
- e) A hearing shall be given to the petitioners and the respondent nos. 6 to 10. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and

during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

As affidavits are not called for, allegations made against respondent nos. 6 to 10 are deemed to have been denied.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)