

30.03.2022
Court No. 19
Item no.29
CP

WPA 1178 of 2022

Smt. Joyashree Basuli & anr.
Vs.
The State of West Bengal & ors.

Mr. Uttam Kumar Bhattacharyya

.....for the petitioners.

Ms. Sipra Mazumdar
Ms. Sangeeta Roy

....for the State.

Mr. Gopal Chandra Das

.....for the Municipality.

Mr. Jaharlal Roy
Ms. Kavita Rani

....for the respondent nos. 16 to 20.

The petitioners allege inaction on the part of the Tamralipta Municipality (hereinafter referred to as 'the municipality') in disposing of an application filed under Section 217 of the West Bengal Municipal Act, 1993 (hereinafter referred to as 'the said Act').

It is submitted by Mr. Roy, learned advocate appearing for the respondent nos. 16 to 20, that such application was not received by his clients.

Mr. Das, learned advocate appearing for the municipality, also submits that he has no instructions as to whether such application was received.

In the writ petition a document has been annexed which shows that the municipality had received the copy on September 30, 2021.

Without going into the merits of the claim of the petitioner, this court is of the opinion that the municipality shall dispose of the application of the petitioners in accordance with law, upon hearing the respective parties. Such consideration shall be restricted to the adjudication of the allegation that the sanction plan was not issued in accordance with the rules and the sanction was a consequence of material misrepresentation or fraudulent statement contained in the plans. For convenience the provisions of Section 217 of the said Act is quoted below:

“217. Power to Board of Councillors to cancel permission on the ground of material misrepresentation by applicant.

– If, at any time, sanction or provisional sanction to erect any building has been given and the Board of Councillors is satisfied that such sanction was given in consequence of any material misrepresentation or fraudulent statement contained in the plans, elevation sections or specifications or land or any material particulars submitted in respect of such building, it may cancel such sanction, and any work done thereunder shall be deemed to have been done without sanction.”

The copy of the application of the petitioners shall be supplied to the respondent nos. 16 to 20 or to their representative, by the municipality. The said

respondents shall be entitled to respond to such allegations. Thereafter, the competent authority of the municipality shall, upon holding an inspection of the premises in question, in presence of the parties, pass a reasoned order. Reports of the inspection shall be supplied to the parties and the parties shall be entitled to respond to such report. All documents filed by either party shall be exchanged and, thereafter, considered by the authority in accordance with law.

A reasoned order shall be passed and communicated to all.

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

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.)