

Item No. 57

31.10.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 3486 of 2022
Prabir Ratan Mondal & Ors.
v.
The State of West Bengal & Ors.

Mr. Sandip Das
... for the petitioners.

Mr. Santanu Kumar Mitra
Mr. Subhendu Sengupta
... for the State.

Mr. Gazi Faruque Hossain
... for the respondent nos. 11 and 12.

Mr. Shyama Prasad Purkait
Ms. Moumita Mondal
... for the respondent nos. 5,7 & 10.

The petitioners seek water connection in their premises and have paid necessary charges before the Diamond Harbour Municipality for obtaining the same. The Municipality considered the application made by the petitioners and allowed the said application subject to an inspection report to be filed by the Engineer of the Municipality and upon payment of the usual fees.

The private respondents are objecting to the grant of such water connection by the Municipality in favour of the petitioners on the ground that the construction where the water connection will be made is an unauthorized one. Reliance has been placed on the order

dated November 13, 2019 passed by this Court in WP No. 16029(W) of 2019 (Abdul Karim Chowdhury & Ors. v. State of West Bengal & Ors.), wherein the Court directed the Administrator of the Municipality to consider as to whether the construction in question is unauthorized or not. The Municipality is, however, yet to take a decision in compliance of the order passed by this Court. An application for contempt alleging violation of the said order is pending consideration. A Suit for preemption is pending between the parties.

As on date, there is nothing on record to show that the water connection has been sought to be made in an illegally constructed premises. The Municipality has already sought for an inspection report from the Engineer of the Municipality.

The Municipality has recorded in the order dated August 3, 2019/October 24, 2019 that as per the West Bengal Municipal Act it is the obligatory duty of the Municipality to supply water even through the common space and/or public land.

The instant writ petition is, accordingly, disposed of by directing the Diamond Harbour Municipality to take necessary steps in furtherance to the order of the Municipality dated August 3, 2019/October 24, 2019, in accordance with law.

The Municipality shall act upon the inspection report from the Engineer to ascertain as to whether the premises where the water supply is to be made is unauthorized or not.

The petitioners are directed to pay the necessary charges for obtaining the said water connection.

Steps shall be taken by the Municipality at the earliest but positively within a period of four weeks from the date of communication of a copy of this order.

It will be open for the Municipality to seek assistance of the Inspector-in-Charge, Diamond Harbour Police Station at the time of effecting the water connection, if necessary.

The respondent nos. 11 and 12 are restrained from obstructing or restraining the men and agents of the Municipality at the time of giving the water connection as directed hereinabove.

It is made clear that the water connection, if any, will not create any equity in favour of the petitioner and the learned Court below will proceed on merits to decide the preemption case that is pending between the parties.

The writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.