

07.02.2022
Item No. 15
Court No.6.
S. De

Through Video Conference

**F.M.A. 990 of 2021
I.A. No. CAN 1 of 2021
I.A. No. CAN 2 of 2021**

**Sri Amitava De Bhowmick & Anr.
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. Siddhartha Banerjee,
...for the appellants.

Mr. Alok Kumar Ghosh,
Mr. Subhrangsu Panda,
...for the K.M.C.

Mr. Rohit Das,
Mr. Kishwar Rahaman,
...for the respdt. nos. 13 & 14.

In re: I.A. No. CAN 1 of 2021

This is an application for condonation of delay of 185 days in filing the appeal. The causes shown being sufficient, the delay is condoned.

I.A. No. CAN 1 of 2021 is, accordingly, disposed of.

By consent of the parties the appeal and the connected applications are taken up together for hearing.

By the order impugned in this appeal the learned Single Judge relegated the writ petitioners to ventilate their grievance before the Municipal Commissioner or any officer to be authorized by the Municipal Commissioner.

The writ petitioners have come up in appeal. Their grievance is that the Executive Engineer is looking into the matter and not the Municipal Commissioner himself. They say that Section 397 of the Kolkata Municipal Corporation Act 1980 authorizes the Municipal Commissioner and no other officer to exercise power of cancellation of a sanctioned plan.

Our attention has been drawn by learned counsel for the Corporation to Section 48 of the 1980 Act which authorizes the Municipal Commissioner to delegate his powers under the Act including the power under Section 397 of the Act. We have been shown a Memo dated January 24, 2022 whereby the Executive Engineer has been authorized by the Municipal Commissioner to look into the grievance of the writ petitioners. That apart, the order under appeal also grants such liberty to the Municipal Commissioner.

We do not find any merit in the appeal. However, we expedite the proceedings before the Executive Engineer and request him to complete the proceedings as soon as possible and preferably within a period of eight weeks from the date of communication of this order to him, after giving full opportunity of hearing to the writ petitioners and all other concerned parties.

Needless to say, the order passed by the Executive Engineer will be a reasoned order. If the Executive Engineer deems it necessary, he may conduct a local inspection before passing the reasoned order.

Accordingly, the appeal being FMA 990 of 2021 is disposed of along with the connected application being I.A. CAN 2 of 2021.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)