

D/L
Item No. 11
05.05.2022
KOLE

MAT 543 of 2022
With
IA No. CAN 1 of 2022

The Asansol Durgapur Development Authority & Anr.
-Vs.-
The State of West Bengal & Ors.

Mr. Debashis Saha,
Mr. D. Basu,

...for the appellant.

Mr. Anwari Qurishi,
Mr. Z. Tahur

...for the State.

Mr. Sandipan Banerjee,
Mr. Kalpita Paul,

...for the DMC.

Mr. Arunavo Ghosh,
Mr. P. Saha,
Mr. S. R. Ganguli,
Mr. T. Mukherjee,
Mr. P. Chakraborty,
Mr. A. Sengupta,

...for the respondent no 4/writ petitioner.

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

Asansol Durgapur Development Authority (in short 'ADDA') was the respondent no. 2 before the learned Single Judge, whereby WPA 2319 of 2022 was disposed of by giving the following directions:-

- “a) The petitioner will apply to ADDA for grant of the final No Objection Certificate within one week from date.*
- b) ADDA will indicate to the petitioner the compliances necessary for such purpose within two weeks thereafter.*

- c) *The petitioner will comply with the formalities and pay necessary charges if required under the law within two weeks thereafter.*
- d) *Such No Objection Certificate shall be granted by the ADDA within a period of four weeks from the compliances of the formalities, by the petitioner.*
- e) *The petitioner will submit the ‘No Objection Certificate’ before the corporation.*
- f) *The corporation will issue the permanent sanction to the building plan upon perusal of the ‘No Objection Certificate’ and other relevant documents within four weeks thereafter.”*

Before the learned Single Judge the writ petitioner had challenged the revocation of the provisional building plan that had been sanctioned by the Durgapur Municipal Corporation (in short ‘DMC’). The contention of the writ petitioner was that the DMC should grant permanent sanctioned plan to the writ petitioner. It appears that such permanent sanctioned plan was not being granted by reason of non-submission of No Objection Certificate from ADDA. Since the sub-lease in favour of the writ petitioner was granted with the approval of ADDA, the learned Judge passed the necessary directions indicated above for issuance of No Objection Certificate by ADDA in favour of the writ petitioner.

The grievance of ADDA before us is simply that there should be no mandate on them for granting No Objection Certificate. In the event the writ petitioner wants to use the concerned plot for commercial purpose, certain formalities

shall have to be complied with by him for change of user. Subject to compliance of such formalities and payment of applicable fees, if any, ADDA would issue No Objection Certificate.

We are of the view that the contention of ADDA is not wholly unreasonable. If rules have been prescribed which are to be complied with for obtaining permission for change of user of the concerned plot, the same shall be complied with by the writ petitioner. Necessary fees, if any, shall also be paid. We are told that several persons similarly placed as the writ petitioner have been issued No Objection Certificate by ADDA even when the plots were being used commercially. Keeping the same in mind and even otherwise ADDA will not unreasonably withhold the No Objection Certificate.

The order impugned stands modified only to the aforesaid extent. The other portions of the order shall remain unaltered.

The writ petitioner/respondent says that he has already approached ADDA. If that be so, then the other directions in the order under appeal shall be carried out and the entire exercise should be completed by ADDA within eight weeks from the date of receipt of a copy of this order, after giving an opportunity of hearing to the writ petitioner. Needless to say and it is repeated that the No Objection Certificate shall not be unreasonably withheld. In the event No Objection Certificate is not granted, cogent detailed reasons therefor must be recorded by ADDA.

Once the No Objection Certificate issued by ADDA is submitted by the writ petitioner to the DMC, the Corporation shall issue permanent sanction to the building plan within four weeks thereafter.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Kausik Chanda, J.)