

S/L 31  
01.03.2022  
Court. No. 19  
*Surajit*

W.P.A. 17468 of 2021

Sri Shiv Shankar Samanta & Ors.  
VS  
The Howrah Municipal Corporation & Ors.

*Mr. Debjit Mukherjee*  
*Ms. Piyali Dutta.*

*...for the Petitioners.*

*Mr. Bipin Ghosh,*  
*Mr. Jahar Dutta.*

*...for the State.*

*Mr. Sandipan Banerjee*  
*Mr. Ankit Sureka*

*...for the HMC.*

The petitioners are aggrieved by an order dated September 7, 2021 passed by the Executive Engineer, Building Department, Howrah Municipal Corporation. The petitioners have been asked to demolish the third floor to the sixth floor of the building situated at 28, Ram Charan Naskar Lane, within the Police Station of Malipanchghora, Howrah – 711107.

It appears that the said order of self-demolition has been passed by the Corporation having detected that the third floor to the sixth floor has been built unauthorisedly.

The petitioners allege that the order suffers from non-application of mind. The order is in a cyclostyled form, wherein only some details have to be filled in. The same order is being issued in respect of all premises without holding any joint inspection and without giving an opportunity of being heard to the persons responsible for such construction.

Mr. Banerjee, learned advocate appearing on behalf of the Howrah Municipal Corporation, submits that there has been rampant illegal and unauthorised construction of four floors without any sanction plan and as such, the writ petition must not be entertained.

The law permits the Corporation to act and proceed against all illegal constructions. The Corporation has the authority to direct the demolition. Such order of the Corporation has the effect of depriving a person of his property. The law provides that the proceedings for demolition have to be initiated and concluded upon observing the principles of natural justice. The principles of natural justice include providing reasons in the order upon hearing the contentions of a person to be affected by such order and upon considering his version.

Having considered the rival contentions of the parties, this Court is of the opinion that the demolition proceedings must be held *de novo* upon holding an inspection in the presence of the petitioners and other interested parties and also upon hearing them. The date of inspection is fixed by this Court on March 14, 2022 at 12.00 noon. No further notice shall be given to the petitioners. The petitioners shall intimate the other occupants of such proceedings. This is a *suo motu* proceeding initiated by the Corporation. The report of the inspection shall be prepared and handed over to the petitioners and persons interested. The parties will answer to the said report and a hearing will be held by the competent authority of the Corporation on March 31, 2022 at 12.00

noon. The parties will be entitled to be represented by their learned advocate and submit all documentary and oral evidences in support of their contentions. A reasoned order will be passed and communicated to all. On the basis of what transpires at the hearing the Corporation shall proceed according to law. The entire exercise shall be concluded within 45 days from the date of communication of this order. No adjournment will be granted to the parties.

This Court has not gone into the correctness of the findings of the Corporation as the Court is conscious of the statutory power vested upon the Corporation to take steps against all illegal and unauthorised constructions.

The order impugned dated September 7, 2021 is set aside and cancelled.

Accordingly, the writ petition is disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of the server copy of this order and/or the learned advocate's communication.

**(Shampa Sarkar, J.)**