

WPA 15858 of 2005

Kailash Mahanti & Anr.
VS
Katwa Municipality & Ors.

Md. Sabir Ahmed
Md. Abdur Rakis
...for the petitioners

Mr. Tapas Kr. Bhattacharya
..for the Katwa Municipality

The writ petition is taken up for consideration in presence of the learned advocates representing the petitioners as well as Katwa Municipality being the principal respondent.

On hearing the learned advocate representing the petitioners it appears that petitioners have grievance with regard to the position of drain maintained by the municipality which is adjacent to the premises of the petitioners and petitioners pray for changing the position of the drain. In spite of direction for filing affidavits vide order dated 13th September, 2005, till date, no affidavit-in-opposition has been filed by the municipality.

Be that as it may, considering the grievance of the petitioners and as well as taking into

consideration the letter of the then Chairman of Katwa Municipality dated 9th August, 2002 addressed to the Executive Magistrate, this Court grants leave to the petitioners to make a composite representation with regard to their aforesaid grievance to the Chairman of Katwa Municipality. If such representation is made within 4 (four) weeks from this date, the Chairman of the Municipality is directed to take decision on such representation of the petitioners within 8 (eight) weeks thereafter on granting opportunity of hearing to the petitioners or their representative and shall pass a reasoned order. The order to be passed by the Chairman of the Municipality shall be communicated to the petitioners within 1 (one) week thereafter.

It is made clear that while considering the grievance of the petitioners regarding drain which situates adjacent to the premises of the petitioners, the Chariman shall make an endeavor whether the position of the drain can be changed in order to mitigate the grievance of the petitioners. If same cannot be done cogent reasons are to be assigned in support of the decision to be taken by the Chairman of the Municipality.

With the aforesaid direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)