

Item No. 185

08.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 17826 of 2022
Nirmalendu Das
v.
The State of West Bengal & Ors.

Mr. Arnab Rit
Mr. Satyam Mukherjee
... for the petitioner.

Mr. Rabindranath Mahato
Mr. Arintra Shankar Ray
... for the respondent no. 7.

None appears on behalf of the Municipality despite service.

Affidavit-of-service filed in Court today is taken on record.

The matter has been taken up out of turn citing urgency. The matter was mentioned in the morning by the learned advocate for the petitioner. Today is the last date within which the order of demolition is required to be implemented by the petitioner.

The Court fixed up the matter at 1.15 p.m. and intimation was given to the learned advocate, Ms. Ahana Sikdar appearing for the Municipality over telephone. As she is unavailable in Court today the order is passed in her absence. None will be prejudiced if the matter is

disposed of as follows. The complainant is duly represented and heard.

The order of demolition passed by the Chairman, Minapore Municipality on July 29, 2022 is the subject matter of challenge in the present writ petition.

The primary contention of the petitioner is that the order of demolition has been passed by the Chairman of the Municipality who is not the competent authority to pass such order. The petitioner contends that the Board of Councillors of the Municipality and not the Chairman is the appropriate authority to pass an order of demolition.

According to Section 218 of the West Bengal Municipal Act, 1993, if the Board of Councillors is satisfied that the erection of any building has been commenced without obtaining sanction or permission under the law or has been constructed in deviation of the sanctioned plan, it may, after giving the owner of the building a reasonable opportunity of hearing make an order of demolition.

In the present case, the order of demolition has been passed by the Chairman of the Midnapore Municipality and not by the Board of Councillors.

In view of the above, the order impugned cannot be allowed to stand. The same is accordingly set aside and quashed.

The Midnapore Municipality is directed to take steps for compliance of the direction passed by this Court on January 3, 2022 in WPA 15598 of 2021 (Nirmalendu Das v. The State of West Bengal & Ors.).

The Municipality shall take steps strictly in accordance with the provision of Section 218 of the WB Municipal Act, 1993 at the earliest, but positively within a period of four weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

sh

(Amrita Sinha, J.)