

17.3.2022
Court No. 19
Item no.21
sn

WPA 19541 of 2021

Sikha Dalal
Vs.
The State of West Bengal & Ors.

Mr. Uttiya Rayfor the petitioner

Mr. Subhasis Bandopadhyay ..for the municipality

Mr. Rajarshi Basu
Mr. Kapil Guha ..for the State

Despite service, none appears on behalf of the respondent nos. 5 to 8. Let affidavit of service be kept on record.

The petitioner alleges that the said respondents have been raising some unauthorised constructions at holding no. 59, D.D. Tiwari Road mahalla, Mouza Bardhaman, without obtaining sanction from the municipal authorities.

Reliance has been placed on an information given by the municipality under the Right to Information Act, 2005. From the said information, it appears that as per the records available with the municipality, no sanction in respect of any construction at holding no. 59, D.D. Tiwari Road mahalla, Mouza Bardhaman under ward no. 21 had been found as per data available on November 2021.

Records also reveal that the municipal authorities have issued a stop work notice. Although, the respondent nos.5 to 8 are not present, the writ petition is disposed of as the Court is not passing any mandatory direction affecting rights of the said respondents, but is relegating the entire matter for a decision by the municipality.

The municipal authorities have already taken cognizance of the complaint, by issuing a stop work notice. This Court is of the opinion that a competent authority of the municipality, must act and proceed in accordance with law and reach the proceeding to its logical conclusion, in the manner stated herein below :-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 5 to 8 within three weeks. Advance notice of the inspection shall be served upon the petitioner, the respondents and all other interested parties. If the parties are not available to accept notice, the authorities shall affix the notice of hearing and inspection at conspicuous places in the concerned premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission

and was continuing, the authorities may take such interim measures by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent nos. 5 to 8. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.

f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion, in terms of the statute. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of six months from the date of communication of this order

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 server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)