

10-11-2022
Item No.13
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.20330 of 2022
Majeda Bibi
-vs-
The State of West Bengal & Ors.

Mr. Partha Pratim Roy
Mr. Dyutiman Banerjee ...for the petitioner

Mr. Pinaki Dhole
Mr. Pinaki Bhattacharya ...for the State

Mr. Usaf Ali Dewan
Mr. Asif Dewan ...for the municipality

The petitioner in this writ petition is aggrieved by a notice dated August 26, 2022 allegedly issued under section 218 of the West Bengal Municipal Act, 1993 directing demolition of the illegal portion of a building constructed by her within a stipulated time period.

Primary contention of the petitioner is that an order of demolition has already been passed in the garb of issuance of the notice and that prior opportunity of hearing was not granted to her before passing the order of demolition.

The petitioner submits that a spot inspection was conducted on July 27, 2022 but the report of the said spot inspection was not forwarded to her. She contends that immediately after the spot inspection was done, the demolition order has been passed without giving any opportunity to defend herself.

Learned advocate for the municipality has placed documents before this court in support of the notice given

for inspection. It has been categorically admitted that the report of the spot inspection was not forwarded to the petitioner.

Provision of Section 218 of the 1993 Act requires the Board of Councillors to give an opportunity of hearing to the owner of the building prior to passing any order of demolition. In the present case, though the inspection was conducted, but no report of inspection was forwarded to the petitioner. The petitioner was not given the opportunity to defend the construction made by her.

Accordingly, the impugned notice dated August 26, 2022 stands set aside. The Board of Councillors of Jangipur Municipality is directed to decide the issue afresh after serving a copy of the inspection report upon the petitioner.

Let the inspection report be forwarded to the petitioner within a week from date. Subsequent steps shall be taken in the matter in accordance with the provision of law and the municipality shall take steps to conclude the proceeding dealing with the alleged unauthorised construction, positively within a period of twelve weeks from the date of forwarding the inspection report to the petitioner.

The writ petition stands disposed of. No order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

[Amrita Sinha, J]

