

Item No. 13

15.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20916 of 2022

The Durgapur Ex-Servicemen's Co-operative Housing
Society Ltd. (DECHSL) & Anr.

v.

The Durgapur Municipal Corporation & Ors.

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das
... for the petitioners.

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
... for the DMC.

The petitioners filed an application praying for post-facto permission for construction of boundary wall including the garage/godown and for approval of the plan before the Durgapur Municipal Corporation by a letter dated October 2, 2021.

The Commissioner of the Durgapur Municipal Corporation intimated the Chief Executive Officer of the Asansol Durgapur Development Authority by a communication dated October 8, 2021 that an application for regularization for post-facto approval has been submitted by the petitioners on July 27, 2021.

The Commissioner of the Durgapur Municipal Corporation by the impugned communication dated

August 24, 2022 has directed the petitioners to self-demolish the single storied warehouse/store room structure without roof on Plot Nos. D-20 and D-21 adjacent to the boundary wall of north east corner of the Amrabati Defense Colony and to demolish long RCC structure having four brick walls and temporary roof shed partitioned into several units constructed adjacent to boundary wall of eastern side of the Amrabati Defense Colony.

According to the Durgapur Municipal Corporation the said structures were constructed without maintaining the building rules.

The petitioners submit that as the application praying for post-facto approval for the construction that has been made is pending consideration at the end of the Durgapur Municipal Corporation, accordingly, the same ought to have been considered prior to passing the order of self-demolition.

I have heard the submissions made on behalf of the petitioners as well as the Durgapur Municipal Corporation.

It appears from records that the Durgapur Municipal Corporation was aware of the pendency of the application filed by the petitioners praying for post-facto approval of the construction made by them. The Corporation ought to have taken a decision with regard

to the said application first rather than passing an order of self-demolition.

If the self-demolition order is executed, then the prayer of the petitioners for post-facto approval will become infructuous.

In view of the above, the instant writ petition is disposed of by directing the Commissioner, Durgapur Municipal Corporation to take a decision with regard to the application made by the petitioners for grant of post-facto approval of the construction made by the petitioners, in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

An opportunity of hearing shall be given to the petitioners and the other necessary parties. A spot inspection may be conducted, if required, after prior notice to all the necessary parties. A decision shall be taken in the matter and communicated to the parties immediately thereafter.

Till a decision is taken with regard to the prayer for post-facto approval, the Commissioner, Durgapur Municipal Corporation is restrained from giving any effect or further effect to the order of self-demolition dated August 24, 2022 impugned in the present writ petition.

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.)