

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 22108 of 2022

Arabinda Nath Jati
Vs.
The State of West Bengal & Ors.

Mr. Dyutiman Banerjee
...for the petitioner

Mr. Susanta Pal,
Mr. Prabir Kumar Ray
...for the State

Mr. Sandipan Banerjee,
Mr. Sobham Majumdar
...for the KMC

Mr. Rajendra Banerjee
...for the respondent no. 6

Learned counsel for the petitioner, by placing reliance on the photographs annexed at page 42 of the writ petition, submits that, taking undue advantage of the temporary absence of the petitioner from his residence at the premises-in-question, the developer of the property has constructed an elevator without taking any sanction or permission from the Chief Electrical Inspector in accordance with law.

Learned counsel appearing for the respondent-authorities contends that no such permission was indeed taken from the Chief Electrical Inspector. It is further contended by learned counsel for the respondent-authorities that the dispute-in-question

does not come within the jurisdiction of the Chief Electrical Inspector, Directorate of Electricity, to decide.

Learned counsel appearing for the respondent no.6/landlord submits that a similar grievance has been raised by the landlord as regards the illegality of the elevator, constructed by the developer, for which a writ petition is pending before a coordinate Bench. In the said matter, an order has been passed on September 07, 2022, directing the Howrah Municipal Corporation to intimate whether any application has been made for installation of lift and whether any construction is being made for the purpose of installation of the lift.

Learned counsel appearing for the petitioner reiterates that the entire entrance of the petitioner has been blocked for such proposed construction of elevator. That apart, it is disputed that the Chief Electrical Inspector does not have jurisdiction in law to decide such issues.

Be that as it may, since the issue is already pending adjudication before the Chief Electrical Inspector, that is, respondent no. 3 herein, it will be premature for this Court to enter into the merits of the dispute at this stage.

Hence, a prudent course of action would be to direct the Chief Electoral Inspector to decide the

dispute referred to him, as expeditiously as possible, in accordance with law, upon giving an opportunity of hearing to the all interested parties.

Accordingly, W.P.A. No. 22108 of 2022 is disposed of by directing the respondent no. 3 to decide the dispute raised by the petitioner with regard to the alleged illegal construction of elevator, in accordance with law, as expeditiously as possible, preferably within six weeks from date.

It is made clear that the proceeding before the Chief Electrical Inspector shall abide by the outcome of the other writ petition pending before the coordinate Bench, that is, W.P.A. No. 15143 of 2022.

It is made clear that the merits of the matter have not been gone into by this Court and it will be open to the parties to take all points urged by them before the Chief Electrical Inspector as well as before the Writ Court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)