

18.10.2022
Item No.45
Ct. No.17
AKG/S.A.

WPA 23311 of 2022

Tapas Chatterjee
-vs-
The State of West Bengal & Ors.

Ms. Reshmi Ghosh,
Mr. Tarun Chatterjee,
Mr. Soumya Sankar Chini

...for the petitioner

Mr. Jahar Dutta,
Mr. Rakesh Singh

...for the State

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

Mr. Jahar Dutta, learned State counsel is present.

The petitioner challenges an order of demolition of an alleged unauthorized structure of a staircase at his medicine store issued by the respondent no. 4. Relying upon the provisions laid down in Section 287 of the West Bengal Municipal Corporation Act, 2006, learned counsel appearing for the writ petitioner submitted that there is a provision in the statute for giving a prior hearing to the petitioner before directing demolition of any unauthorized structure, such hearing was not granted to the petitioner.

The relevant Municipal Corporation Authority is not represented.

Considering the facts in the writ petition and on perusal of the materials on record, the justice would

subservd, if the respondent no. 3 is directed to decide the issue upon giving a prior hearing notice of at least seven days to the petitioner and after giving an opportunity of hearing to the petitioner and then shall pass its reasoned order.

The entire exercise as directed above shall be carried out and completed by the respondent no. 3 within a period of five weeks from the date of communication of this order. The respondent no. 3 then shall communicate its reasoned decision/order to the petitioner within a further period of one week from the date of the said reasoned order to be passed.

In the event, the said reasoned decision/order goes against the petitioner, then the relevant Municipal Corporation shall take immediate steps strictly in accordance with law to remove the alleged unauthorized structure.

It is made clear that this Court has not gone into the merit of the claim of the writ petitioner in any manner and the writ petitioner shall be at liberty to urge all the points available before him and shall rely upon whatever documents he wishes to rely upon.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

The relevant Municipal Corporation shall not take any step or further steps in the matter till one week after communication of the reasoned order to the petitioner.

On the above terms, this writ petition being **WPA 23311 of 2022** stands disposed of.

(Aniruddha Roy, J.)