

WPO No.2083 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. ALI AZAD
Vs.
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA
Date:13th June, 2022.

Appearance:
Mr. Dyutiman Banerjee, Adv.
...for Petitioner.

Mr. Ranajit Chatterjee, Adv.
Md. Ziaur Rahman, Adv.
...for KMC.

Mrs. Sipra Majumdar, Adv.
Mrs. Debarati Sen (Bose), Adv.
..for the State.

The Court:- The petitioner alleges illegal and unauthorised construction on the premises no. 1/H/5, Kalimuddin Sarkar Lane and 2, Kalimuddin Sarkar Lane, Ward-34, Borough-III, Police Station-Beliaghata, Kolkata-700010 under Kolkata Municipal Corporation.

In compliance of the direction passed by the Court in the earlier writ petition filed by the petitioner being WPO No.135 of 2021 (Md. Ali Azad Vs. State of West Bengal & Ors.) the matter was heard by the Executive Engineer (Building)/Borough-III.

After hearing the submissions made on behalf of the petitioner as well as the person responsible, the Executive Engineer was of the opinion that a proceeding under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 is to be initiated against the unauthorised construction at the aforementioned two premises. The Building Department was directed to process the case under Section

400(1) of the Kolkata Municipal Corporation Act, 1980 and placed the same before the Special Officer (Building) to give an opportunity of hearing and to pass a reasoned order. The proceeding was to be completed within a period of eight weeks.

Learned Advocate representing the petitioner submits that the time limit specified by the Executive Engineer (Building) is long over but no step has been taken to comply with the direction passed by the Executive Engineer and no proceeding under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 has been initiated at all.

None appears on behalf of the private respondents.

As it appears that the Executive Engineer has already passed direction for processing the case of unauthorised construction at the aforementioned two premises under Section 400(1) of the Kolkata Municipal Corporation Act, 1980, accordingly, it is incumbent for the Executive Engineer (Building)/Borough-III to ensure that the order passed is complied with by the concerned authority.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer (Civil), Building, Borough-III to take immediate steps to ensure that the direction passed in the order dated 10th June, 2021 is complied with at the earliest, but positively within a period of three months from the date of communication of a copy of this order. Reasonable opportunity shall be given to all the parties to defend their case.

Petitioner is directed to forward a copy of the order dated 10th June, 2021 passed by the Executive Engineer (Building)/Borough-III to the aforesaid authority at the time of communicating the order of this Court.

Report filed in Court today by the Officer-in-Charge, Beliaghata Police Station dated 5th May, 2022 be retained with the record.

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

(AMRITA SINHA, J.)

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