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Ct No 2023
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**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 3439 of 2022

**Sri Tapan Sarkar
Vs
The State of West Bengal & Ors**

Mr. Manas Kumar Ghosh,
Ms. Susmita Dey (Basu),
... For the Petitioner.

Mr. Tapan Kumar Rakshit,
... For the Kalyani Municipality.

The petitioner is aggrieved by the order passed by the Executive Officer, Kalyani Municipality on 2nd December, 2021 cancelling the completion certificate issued by the Municipality on 10th July, 2017. The petitioner along with Mrs. Rikta Sarkar was asked to remain present in the chamber of the Executive Officer for a hearing.

Learned advocate for the petitioner submits that the said order of cancellation was passed without affording an opportunity of hearing to the petitioner. No reason has been mentioned for cancellation of the completion certificate.

Learned advocate representing the Municipality submits, upon instruction that, the plan in question was obtained by the predecessor in interest of the petitioner by practicing fraud. It has been submitted that there were two lessees in the plot in question. Plan was obtained for making construction by one of them without disclosing

the name of the other lessee.

It has been submitted that the Municipality afforded opportunity of hearing to both the parties.

From the submissions of the parties and upon perusal of the document annexed to the writ petition, it appears that though opportunity of hearing was afforded to the parties, but the said opportunity ought to have been afforded prior to cancelling the completion certificate, which was issued way back in the year 2017. The reason for cancellation ought to have been mentioned in the impugned order of cancellation.

The impugned order has been passed contrary to the principles of natural justice and *audi alteram partem*.

In view of the above the impugned order dated 2nd December, 2021 is set aside and quashed.

It will be open for the Municipality to decide the issue on merits after giving reasonable opportunity of hearing to all the necessary parties. The reasoned order shall be passed and communicated to the parties.

The writ petition stands disposed of.

The instruction given by the Kalyani Municipality is retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)