

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5376 of 2023

Deepanjali Cooperative Housing Society Ltd.
Vs.
The State of West Bengal & Ors.

Ms. Malabika Roy Dey
... For the petitioner.

Mr. K. M. Hossain
Ms. Rupsha Chakraborty
... For the State

Mr. Santanu Kumar Mitra,
Mr. Amartya Pal
... For the respondent no.2

Mr. Goutam Dey
Mr. Dependu Sarkar
Mr. Subhamoy Haiti
Mr. Ankita Ghosh
Ms. Chaitali Das
Mr. Ankan Mondal
... For the respondent nos. 3 to 5.

Mr. Soumya Mukherjee
... For the respondent no.6

The structure in question from where the private respondent no. 5 is running its business has been held to be unauthorized, as the same was constructed without obtaining any sanction.

Learned advocate representing the private respondent produces documents to show that the New Town Kolkata Development Authority (NKDA) issued a certificate of enlistment in its favour and the same is valid till 31st March, 2024. The authority permitted the private respondent to run the eating house/restaurant upto 150 sq. ft.

It has been submitted that the private respondent is running the business in only 100 sq. ft. The tin shed has been removed.

The submission of the private respondent that the certificate of enlistment acts as permission to run the business from the subject structure cannot be accepted.

Certificate of enlistment is only the license for running the business. The same does not give any permission to a businessman to run the business from any structure constructed without obtaining any sanction.

Certificate of enlistment cannot be treated as a sanction for running business from an unauthorised construction made without obtaining any sanction from the competent authority.

The West Bengal Pollution Control Board and the NKDA both submit that the private respondent does not have the necessary permission(s)/consent to operate the business in the residential area.

In view of the above, the writ petition is disposed of by directing the NKDA to proceed with the demolition work at the earliest. The demolition shall be concluded positively within four weeks from the date of communication of this order.

Report filed by the Inspector-in-Charge, New Town Police Station, Bidhannagar Police Commissionerate be

retained with the records.

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

(Amrita Sinha, J.)