

07
14.03.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 5888 of 2023

**Sarfaraz Ahmed
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Tanmoy Mukherjee,
Mr. Souvik Das.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.
...For HMC.**

The petitioner is aggrieved by the action of the Howrah Municipal Corporation in taking steps to demolish the construction made at his instance on the basis of a valid sanction plan at 19, Belilious Road, Howrah, Ward No.-17, Borough-III.

The petitioner has annexed a copy of the building sanction plan which is valid till 6th November, 2025.

The petitioner contends that the construction at the subject premises is being made strictly in accordance with the plan sanctioned.

It has been submitted that prior to the demolition sought to be carried out today, no notice or opportunity of hearing was granted to the petitioner.

Learned advocate appearing for the Howrah Municipal Corporation submits, upon instructions, that

notice of hearing was duly given to the petitioner and a self-demolition order was also passed way back in November 2022.

Copy of the notices allegedly issued in favour of the petitioner in November 2022, the note recorded at the time of hearing conducted on 7th November, 2022, the self-demolition order dated 16th November, 2022 and the request made by the Assistant Engineer-in-Charge of Building Department to the Additional Deputy Commissioner of Police, Special Branch, Howrah dated 24th February, 2023 requesting deployment of police force on 14th March, 2023 for assisting the Corporation for smooth operation of the demolition work at the subject premises have been placed in Court today.

It appears from the aforesaid documents that though the communication intimating the date of hearing and the self-demolition order were addressed to the petitioner, but there is no signature to show that the notices were actually served upon the petitioner or received by the representative of the petitioner.

As the petitioner contends that construction is being made in accordance with the valid sanction plan and there is nothing on record to suggest that the petitioner was put on notice prior to effecting the demolition work, accordingly, the Corporation is directed not to proceed with the demolition work for the time being.

An opportunity of hearing shall be given to the petitioner to place documents in support of the construction made by him.

After hearing the petitioner and upon perusal of the documents if it reveals that construction is being made by the petitioner in deviation of the plan sanctioned, then it will be open for the Corporation to take steps in accordance with law, to demolish such unauthorized construction, if there be any.

Documents placed by the learned advocate appearing for the Howrah Municipal Corporation be retained with the records.

Learned advocates representing both the parties are directed to communicate this order to the Howrah Municipal Corporation at once.

The Corporation and the police are directed to act on the basis of the communication made by the learned advocate.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)