

03.08.2023
Ct. No.7
S/L No.35
KS

W.P.A. 9490 of 2021
Rakhi Chatterjee
-Vs.-
Midnapur Municipality & Ors.

Mr. Pingal Bhattacharyya
Mr. Soumitra Ghosh
Mr. Rajdip Sinha
.....For the Petitioner
Mr. Nilanjan Bhattacharjee
Mr. Arpan Guha
Mr. Saikat Dey
.....For the Respondent No.4
Mr. Sujay Bandyopadhyay
Mr. Pradipta Siddhanta
.....For the Midnapur Municipality

1. The petitioner has challenged the order of the Chairperson, Board of Administrator, Midnapur Municipality dated February 12, 2021. By the order impugned, the complaint of the writ petitioner was rejected upon holding that it was time-barred.
2. The learned advocate appearing for the petitioner submits that the Midnapur Municipality after arriving at the finding that the construction has not been made in accordance with law, has rejected on the ground that the complaint is time-barred.

3. Mr. Bhattacharjee, learned advocate appearing for the private respondent submits that the building has been completed sometimes in the year 2016 and the petitioner lodged a complaint alleging illegal construction only in the month of September, 2020 and the building is in occupation of several persons and this Court, at this stage, should not entertain this writ petition.
4. Learned advocate appearing for the Midnapure Municipality also submits that the complaint of the petitioner is time barred as she lodged the complaint only in the month of September, 2020, whereas the building has been completed at the end of the year 2016.
5. Heard the learned advocates for the parties and perused the materials placed.
6. The order dated February 12, 2021 was passed by the Chairperson, Board of Administrator, Midnapur Municipality pursuant to an order dated January 15, 2021 passed in W.P.A. No.9457 of 2020. It is the duty of the Municipality under the relevant statute to control the building operations within its limits. After going through the impugned order, this Court finds that the Midnapur Municipality even after observing that the construction has been made in deviation of the sanctioned building plan and also that the building

rules have been violated have rejected the complaint only on the ground that the same is time-bared.

7. Learned advocate appearing for the Midnapur Municipality could not show any provision of the West Bengal Municipal Act, 1993, which provides that an illegal construction can automatically become an authorized one with the passage of time so as to make it immune from demolition or any action in accordance with the provisions of the West Bengal Municipal Act, 1993. The Municipality having failed to detect that the construction within its limits was being carried on and has been completed in deviation and/or violation of the sanctioned building plan and/or the building rules have sought to put the blame upon the petitioner for lodging the complaint at a belated stage. The reasons for rejection of the complaint as time-barred cannot be accepted by this Court since the Midnapur Municipality is duty-bound to take steps in accordance with law once a complaint with regard to illegal construction is made before such authority. In view thereof, the impugned order dated 12th February, 2021 is set aside.
8. The Board of Councillors of Midnapur Municipality is directed to consider the complaint lodged by the petitioner on 4th September, 2020 and to dispose of the

same in accordance with law after giving a reasonable opportunity of hearing to the petitioner, the private respondents and/or any other persons whose right and/or interest may be affected and/or their authorized representatives by passing a reasoned order and communicate the same to the parties immediately thereafter.

9. The entire exercise shall be completed as expeditiously as possible but positively within a period of six weeks from the date of receipt of the server copy of this order.
10. With this above observations/directions, the writ petition stands disposed of.
11. There will be no order as to costs.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)