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Ct
No24
AGM

13.06
2023

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

WPA 13499 of 2023

**Sthapati 'O' Nirman Rep. by its partners Pabitra
Kar & Anr.**

Vs

The Howrah Municipal Corporation & Ors.

**Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das**

... for the Petitioners.

**Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhon Majumdar**

... For the HMC.

The petitioners are aggrieved by the action initiated by the HMC in response to a complaint lodged on 22nd May, 2023 by one Nandita Chowdhury, Member, West Bengal Legislative Assembly.

The Member of the Legislative Assembly lodged complaint before the Commissioner, HMC that an unauthorized hazardous structure has been constructed at 45/14, Chowdhury Para Lane, Howrah, Ward No. 44 and the Corporation should take steps to demolish the unauthorised construction.

Learned advocate representing the petitioners submits that on receipt of the aforesaid complaint, the Corporation did not take any step in accordance

with the HMC Act 1980 but proceeded to demolish the alleged unauthorised construction without affording an opportunity of hearing to the petitioners.

According to the petitioners, there is a building sanctioned plan pursuant to which construction has been made. The petitioners admit that there has been some side deviations at the time of making construction and accordingly an application was filed before the Assistant Engineer (Building) Department, HMC on 31.05.2023 for regularization of the portions constructed in deviation of the sanctioned building plan.

The application of the petitioners seeking regularization of the building plan is pending consideration.

It appears that the HMC already initiated BMR Case No. 87/2021-22 for dealing with the unauthorised construction at the subject premises.

According to the municipal laws, the HMC ought to take steps to deal with the unauthorised construction in accordance with the provision of the HMC Act 1980 and the corresponding Rules.

Any member of the society may lodge complaint to draw attention of the Corporation with regard to any construction which may have been made unauthorisedly. The Corporation in response to the said complaint is required to initiate proceeding in

accordance with the Act and take necessary consequential steps to deal with the same. Member of the Legislative Assembly does not have any special power to direct the Commissioner of the Corporation to effect demolition of any structure without following the provisions of the Act.

In view of the above, the instant writ petition is disposed of by granting liberty to the Commissioner HMC or his delegate to take steps to deal with any unauthorised construction at the subject premises.

The prayer of the petitioners seeking regularization of the deviations which were constructed beyond the sanctioned plan may also be taken for consideration simultaneously.

An opportunity of hearing shall be given to the petitioners and all other necessary parties. If required, spot inspection shall also be conducted to ascertain the nature and extent of unauthorized construction/deviation.

Steps shall be taken to conclude the proceeding at the earliest but positively within a period of sixteen weeks from the date of communication of this order.

The letter of the MLA is liable to be ignored.

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.)