

35
Ct
No24
AGM

15.06
2023

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

WPA 13560 of 2023

**Sri Monoj Kumar Gore
Vs
Howrah Municipal Corporation & Ors.**

**Mr. Ayan Banerjee
Ms. Debjani Sengupta,
... for the Petitioner.**

**Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumdar
... For the HMC.**

**Mr. Pinaki Ranjan Mitra,
... For the respondent no. 5.**

The order dated 1st June, 2023 passed by the Commissioner, Howrah Municipal Corporation is impugned in the present writ petition.

The primary ground of challenge is that no opportunity of hearing was given to the petitioner prior to passing the impugned order.

Learned advocate representing the private respondent also admits that no opportunity of hearing was granted to either of the parties by the Commissioner.

Both the learned advocates representing the petitioner as well as the private respondent admits that the matter was heard by the concerned engineer but prior to passing the order, the Commissioner never afforded an opportunity of hearing to either of the parties.

The Court in the earlier writ petition being WPA 21135 of 2022 passed order on 15th September, 2022

directing the Commissioner to reconsider the matter afresh and take a decision with regard to the prayer of the petitioner for regularization. It was directed that the order shall be passed by the Commissioner after giving prior opportunity of hearing to all the necessary parties.

The authority who has been directed to pass the order is required to hear the matter afresh for passing a reasoned order in the matter. An application of mind is required to be made by the Commissioner himself and the Commissioner ought not to have relied upon the findings of the engineer.

As it appears that the impugned order has been passed without affording an opportunity of hearing to the parties, accordingly, the same is liable to be set aside and accordingly set aside.

The Commissioner, Howrah Municipal Corporation is directed to hear the matter afresh and thereafter pass a reasoned order.

Decision shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order. The reasoned order shall be communicated to the parties immediately thereafter.

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.)

