

31st January, 2023
(D/L No.35)
(SKB)

W.P.A. 16719 of 2022

Kajeul Sardar @ Kajiul Sardar
Versus
The State of West Bengal and another

Mr. Jaydip Kar,
Mr. Arindam Sen,
Mr. Sagnik Bhattacharya,
Mr. Rishav Gupta
... for the petitioner.

Mr. Debraj Sahu,
Mr. Prithvish Basu
... for the State.

Mr. Partha Ghosh
... for the U.O.I.

Mr. Chayan Gupta,
Mr. Sandip Dasgupta,
Mr. Saaqib Siddiqui,
Mr. Aviroop Mitra
... for the WBHIDCO

Mr. Sirsanya Bandopadhyay,
Mr. Arka kr. Nag,
Mr. Tirthankar Dey
... for the BMC.

Ms. Papiya Banerjee,
Mr. S. Mukherjee
... WBPCB.

The petitioner is aggrieved by a communication dated 13th July, 2022 from the East Kolkata Wetlands Management Authority whereby the petitioner has been directed to pay an amount approximately of Rs.1.99 crores as recovery of the costs incurred by the Authority

for restoration of the land to its original condition. The step for restoration was taken pursuant to orders passed by the Division Bench of this court on 24th December, 2021 and 4th March, 2022. The impugned letter relies on Section 11(1) of The East Kolkata Wetlands (Conservation and Management) Act, 2006 (hereinafter referred to as 'the 2006 Act').

The petitioner's grievance is simply this that there is no basis of quantification of the amount which the petitioner has been directed to pay to the concerned Authority.

Learned counsel appearing for the Bidhannagar Municipal Corporation being the respondent no.14 states that the said respondent acted in pursuance of the directions of the Division Bench and appointed a Contractor to demolish the unauthorised construction. Counsel submits that the expense and bill of Rs.1.99 crores was given by the Contractor to the respondent no.14 which in turn forwarded the amount to the East Kolkata Wetlands Management Authority. Counsel submits that the petitioner does not have a right to be heard at any subsequent stage, which is contemplated under Section 11(1) of the 2006 Act.

Section 11(1) of the 2006 Act provides for restoration of land to its original character and mode of use. Under the said provision, the Authority, as defined

under Section 2(a) as the East Kolkata Wetlands Management Authority constituted under Section 3 of the 2006 Act, is empowered to take steps *suo motu* or on receipt of any information that the character or use of a land is being changed or has been changed in violation of any provision of the 2006 Act. The Authority then shall pass an order after giving the concerned person a reasonable opportunity of hearing and shall require the concerned person to undertake the restoration and, in default, take steps for restoration by itself and recover the cost of the expense incurred as arrears of land revenue.

Section 11 is silent on the mode and method of quantification and merely speaks of recovery. The impugned document simply mentions an amount, which is to be paid by the petitioner without disclosing the basis of such demand or the expense incurred by the Contractor or by the respondent no.14. The impugned letter also mentions "cost estimate for restoration work" without stating the actual amount which has been directed to be paid by the petitioner. The document enclosed with the affidavit-in-opposition of the Authority is an estimate as described in the document itself and does not give the basis/break up of the actual cost incurred for the demolition.

The above persuades this court to direct the East Kolkata Wetlands Management Authority being the respondent no.5 to communicate the basis for the amount which has been directed to be paid with supporting documents to the petitioner. The aforesaid direction shall be complied with by the Authority within two weeks from date. The impugned document dated 13th July, 2022 is accordingly quashed. The concerned Authority, which is empowered under Section 11(1) of the 2006 Act to recover the expenses incurred for the demolition from the petitioner, shall be entitled to take appropriate steps after completing the directions passed by this court.

W.P.A.16719 of 2022 is accordingly disposed of in terms of the above.

(Moushumi Bhattacharya, J.)