

11.04.2023
Item No.40
gd/ssd

WPA(P)/347/2021
SANJAY DAS
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder,
Ms. Srabanti Das,
Ms. Neha Singh
..for the Petitioner.

Mr. Apurba Kr Ghosh,
Mr. Rudranil Ghosh
..for the Respondent No.5.

1. By this writ petition styled as a public interest litigation the writ petitioner points out that the 5th and 6th respondents put up unauthorised illegal construction by constructing a multi-storied building without any planning permission/deviation.

2. The 5th and 6th respondents filed affidavit-in-opposition objecting to the maintainability of the writ petition and made certain allegations against the writ petitioner and also point out that there are other buildings which have been constructed and the Municipal Corporation has regularized the same. If the Municipal Corporation has committed an illegality in regularizing an unauthorised construction or illegal construction, then the Commissioner and officers of the concerned Municipality have to be prosecuted. In any event,

there cannot be any equality in an illegality. Therefore, we do not propose to go into any of the allegations made by the petitioner which are personal against the 5th and 6th respondents. Equally, allegations made by the 5th and 6th respondents in their affidavit-in-opposition regarding the locus standi of the writ petitioner because it is the Municipal Corporation which is the watchdog which needs to take action. If the Municipal Corporation has failed to perform its duties and allowed blatant violation of the Building Rules, then all the officers of the Corporation have to be prosecuted. The photographs annexed in the writ petition show that not only the 5th and 6th respondents have put up construction, there are other constructions which have been put up which are fully completed and occupied.

3. Therefore, we direct the 4th respondent to inspect the building constructed by the 5th and 6th respondents within a week from date and if there is any unauthorized and illegal construction, action should be taken within three days from the date of completion of the inspection by following the due process of law by putting the 5th and 6th respondents on notice and strictly adhering to the relevant Rules and Regulations. Since the 5th and 6th respondents have stated that there are other

buildings which have been constructed like that of the building put up by the 5th and 6th respondents, if that be so, the Commissioner is directed to inspect all such buildings in the vicinity and in cases where illegal or unauthorized construction has been put up, notice should be issued to those building owners/developers/occupants and action be taken in accordance with law. When the inspection is conducted, the 5th and 6th respondents shall furnish all particulars and information called for from the authorities to justify their stand.

4. In view of the above observation, the writ petitions stand disposed of.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)