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20.11.2023
d.p.

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

W.P.A 21078 of 2023

**Sri Buddhadeb Das
-versus
The State of West Bengal & Ors.**

**Mr. Prantick Ghosh,
Mr. Prasad Bhattacharyya.
...For the Petitioner.**

**Ms. Priya Ghosal.
...For the Respondent
Nos. 6 and 7.**

**Mr. Amal Kumar Sen, Ld. AGP,
Ms. Salina Sumi.
...For the State.**

**Mr. Soumyajit Bhatta.
...For the Municipality.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents.

It has been submitted that the construction has been made without leaving the mandatory side open spaces.

In response to the objection filed by the petitioner, representative of the Panihati Municipality made a preliminary inspection of the spot but proper measurements were not taken.

It has been submitted that a hearing was conducted by the Chairman on 3rd November, 2023 but no order or the fate of the hearing has been communicated to the petitioner.

Stop work notice under Section 220 of the West Bengal Municipal Act, 1993 has, however, been passed by the Chairman, Panihati Municipality.

Learned advocate appearing for the private respondents submits, upon instructions, that the petitioner is also responsible for making unauthorized construction.

Learned advocate appearing for the Municipality admits that final order pursuant to the hearing is yet to be passed. It has also been submitted that a fresh spot inspection is required to be conducted to ascertain proper facts.

Upon hearing both the parties and upon perusal of the materials on record, it appears that the plot where the construction is alleged to be made is a portion of the partitioned plot. To ascertain the nature and extent of unauthorized construction, spot inspection by taking proper measurement is required. The same has not been done till date.

In view of the above, the Municipality is directed to conduct spot inspection upon prior notice to all the necessary parties and to take proper measurements to ascertain whether mandatory side open spaces have been maintained at the time of making construction.

If it appears that the mandatory side open spaces have not been left or the construction is being made in

deviation or without any sanctioned plan, then necessary steps shall be taken by the Board of Councillors of the Panihati Municipality to deal with such unauthorized construction in accordance with law.

An opportunity of hearing shall be given to the petitioner prior to passing final order in the matter.

The issue has to be decided at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

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.)