

MI- 14.08.2023
55 Ct.15
rkd

W.P.A. 20847 of 2018

Md. Nazrul Islam

-vs-

The State of West Bengal & Ors.

Mr. Kishore Mukherjee

....for the petitioner.

Mr. Sujay Bandyopadhyay,
Mr. Jagajyoti Das

....for the Midnapur Municipality.

Petitioner by filing the present writ petition, *inter alia*, has prayed for implementation of the order dated 1st September, 2017 passed by the Chairman, Midnapur Municipality.

The learned advocate representing the petitioner submits that previously he filed writ petition being WPA 3890 of 2016 since he was facing the problem of blockage of drain which is adjacent to his premises and the said drain was required to be maintained by the concerned authority of the Municipality. Previous writ petition being WPA 3890 of 2016 was disposed of by a coordinate Bench directing the Chairman of the Municipality to consider the representation of the petitioner and dispose of the same within certain time after granting opportunity of hearing to the parties.

In terms of the said order dated 2nd

August, 2017 hearing was conducted by the Chairman of the Midnapore Municipality on 30th August, 2017 and an order was passed directing the respondent no.5 to unclog the drain and ensure smooth functioning of the sewerage system within seven days from date.

It has been submitted on behalf of the petitioner that in spite of the order passed on 1st September, 2017 by the Chairman of the Municipality the drain remains blocked. Petitioner wants to unclog the drain pursuant to the order dated 1st September, 2017.

The learned advocate representing the Midnapur Municipality submits that there are certain problems with regard to the drain in question which is adjacent to the premises of the petitioner and respondent no.5 as a result whereof in regular interval of the said drain is being choked.

It has also been submitted that pursuant to the order dated 1st September, 2017 the blockage in the drain was removed but again it has been choked.

Considering this perennial problem persisting with regard to the said drain Municipality has formulated a scheme for restructuring of the drain for permanent solution.

It has also been submitted on behalf of Midnapore Municipality that it is expected within six months necessary steps would be taken and thereafter the problem would be solved permanently.

Having considered the submissions made on behalf of the learned advocates representing the petitioner and Midnapur Municipality and taking note of the order passed by the Chairman of the Municipality dated 1st September, 2017, at page 32 of the writ petition, this Court directs the concerned authority of Midnapur Municipality to keep the said drain blockage free till the restructuring of the drain is made pursuant to the scheme formulated by the Municipality.

With the aforesaid direction and observation the writ petition stands disposed of.

However, there shall be no order as to costs.

Affidavit-of-service and the notice have been filed by the petitioner which goes to show that respondent no.5 refused to accept the notices and the envelope is annexed to the said affidavit-of-service. Therefore, the writ petition is disposed of in absence of the respondent no.5 since refusal to accept notice constitutes service upon the said

respondent.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)