

13.09.2023
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AN/Ct. No.24

WPA 22031 of 2023

**Rahul Pandey & Anr.
versus
Howrah Municipal Corporation & ors.**

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Ms. Dipanwita Ganguly
Mr. Kaustav Bhattacharya
Mr. S. Chakraborty

... for the petitioners

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhon Majumder
Ms. Lipika Chatterjee

... for the H.M.C.

The matter relates to the unauthorised construction at 9, Durga Das Kuthi Lane, Ward No. 27 under the jurisdiction of Howrah Municipal Corporation.

A notice to self-demolition of unauthorised construction of the 4th, 5th, 6th and 7th floor of the construction has been issued by the Assistant Engineer, Howrah Municipal Corporation on 31.08.2023. The petitioner has been directed to demolish the said construction within five days.

The petitioner submits that hearing was scheduled on 22.12.2017 but the hearing did not take place on the said date. Thereafter, the Corporation remained silent and did not proceed with the issue of unauthorised

construction. All on a sudden on 31.08.2023, notice has been issued for demolishing the structure within five days.

It has been submitted that an opportunity of hearing was not given to the petitioner prior to passing the order of demolition.

Learned counsel representing the Howrah Municipal Corporation is yet to receive instructions in the matter.

As it is the specific case of the petitioner that no hearing was afforded prior to passing the order of demolition and there is nothing on record to suggest that the petitioner was heard prior to the demolition order being passed, accordingly, the Assistant Engineer (In-Charge), Howrah Municipal Corporation is directed to grant an opportunity of hearing to the petitioner and all other necessary parties and thereafter pass a reasoned order in the matter.

In the event, the petitioner fails to produce any document in support of the construction made, necessary steps shall be made to deal with such unauthorised construction in accordance with law.

It will be open for the Howrah Municipal Corporation to conduct spot inspection upon prior notice to the necessary parties before passing the final order in the matter. A 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 all the parties.

Till a decision is taken by the aforesaid respondent, the impugned order dated 31.08.2023 shall be kept in abeyance.

The instant writ petition stands **disposed of**.

There will be however no order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Amrita Sinha, J.)