

Item-3.
Ct. No.15
24.08.2023
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**In the high court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 26342 of 2018

**Manoj Kumar Chowbey
-Vs.-
The Hooghly-Chinsurah Municipality & Ors.**

**Mr. Sourav Sen
Ms. Adrisnata Chakraborty
... For the Petitioners.**

**Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury
... For the Hooghly-Chinsurah
Municipality.**

**Mr. Samiran Giri
Ms. Madhumita Patra
...For the respondent no. 3.**

Writ petition is presented, inter alia, challenging the order dated December 7, 2018 issued by the Chairman, Hooghly-Chinsurah Municipality whereby direction has been given by the Chairman to demolish the unauthorized construction upon Sri Ram Sevak Chowbey one of the brothers within December 14, 2018, failing which the Municipal Authority would demolish the said structure by December 18, 2018.

Sri Manoj Kumar Chowbey being one of the brothers has approached this Court by filing this writ petition and has contended that the said impugned order dated December 7, 2018 has been passed by the Chairman of the Municipality without granting opportunity of hearing to him.

Since the impugned order dated December 7, 2018 requires demolition of the structure in question this Court vide order dated August 14, 2023 directed the learned advocate for the Municipality to obtain instructions and if necessary submit records in order to demonstrate before this Court that the present petitioner being one of the brothers was given opportunity of making deliberation before the concerned authority by the Municipality prior to passing the impugned order dated December 7, 2018.

Today Mr. Tapas Kumar Ghosh, learned advocate representing Hooghly-Chinsurah Municipality has submitted on instruction that no opportunity of hearing was afforded to the present petitioner.

In view of such submission made on behalf of the Municipality it appears that the order of demolition dated December 7, 2018 passed by the Chairman, Hooghly-Chinsurah Municipality cannot survive due to violation of principles of natural justice. Accordingly, the impugned order dated December 7, 2018 stands set aside.

The concerned authority of Hooghly-Chinsurah Municipality is directed to initiate fresh proceeding under Section 218 of the West Bengal Municipal Act, 1993 within two weeks from date and conclude the same within twelve weeks thereafter after granting opportunity of hearing to all the brothers of the petitioner and other interested parties, if any.

The decision to be taken by the concerned authority of Hooghly-Chinsurah Municipality shall be communicated to the parties within two weeks thereafter.

Affidavit-of-service filed on behalf of the petitioner today is taken on record.

Respondent no. 3 being the added respondent is also represented by the learned advocate today.

The writ petition stands disposed of.

There shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Saugata Bhattacharyya, J.)