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12.04.2023
d.p.

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

W.P.A 27940 of 2022

**Kartick Ghosh
-versus
The State of West Bengal & Ors.**

**Mr. Kartick Bhattacharya,
Mr. Asok Kumar Ganguly,
Ms. Soumashree Dutta.
...For the Petitioner.**

**Mr. Sirsanya Bandopadhyay,
Mr. Tirthankar Dey,
Mr. Arka Kumar Nag,
Mr. Souvik Naiya.
...For BMC.**

**Mr. Biswajit De,
Ms. Rajlakshmi Ghatak.
...For the State.**

**Mr. Debabrata Mondal,
Ms. Sreetama Neogi.
...For the Respondent
Nos. 7, 9 and 10.**

The petitioner challenges the order dated 14th November, 2022 passed by the Commissioner, Bidhannagar Municipal Corporation directing demolition of the unauthorized construction made without any sanctioned plan.

Learned advocate appearing for the petitioner submits that the construction was made in the year 2009. Complaint was lodged by the private respondents out of spite and vengeance.

It has been submitted that the private respondents are also guilty of raising unauthorized construction.

Prayer has been made to give liberty to the petitioner to seek regularization of the construction made.

It appears that the impugned order was passed in compliance of the direction passed by this Court in WPA 10987 of 2019 (Chandana Sana & Ors. -vs-The State of West Bengal & Ors.).

The parties were duly represented by their learned counsel at the time of hearing before the Commissioner.

After hearing all the parties and upon perusal of the inspection report, it was observed that there is a three storied existing building which is occupied but constructed without obtaining any sanction.

The petitioner admits that sanction was not obtained prior to making construction. Prayer is to permit the petitioner to file application seeking regularization.

It appears that the scope of regularization under the West Bengal Municipal Corporation Act, 2006 is very minimal. There is hardly any scope to regularize a three storied construction made without obtaining any prior sanctioned plan.

The prayer of the petitioner seeking liberty to file application for regularization accordingly cannot be allowed.

Law mandates that construction is to be made only after obtaining a sanction plan and not prior thereto. The Act does not contemplate that the construction will be made and thereafter application for regularization of the said construction can be submitted.

The order impugned does not appear to suffer from any infirmity or illegality.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition fails and is hereby dismissed.

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

(Amrita Sinha, J.)