

W.P.A. 27558 of 2015

**Munna Yadav
Vs.
Howrah Municipal Corporation & Ors.**

**Mr. Arnab Dutt
Ms. Labani Dey
....for the Petitioner**

**Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sovan Majumder
...for the HMC**

**Mr. Priyankar Saha
Mr. Debangshu Dinda
...for the State**

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

The writ petition is instituted, *inter alia*, challenging the order dated 17th September, 2015 issued by the Assistant Engineer, Borough-I, Howrah Municipal Corporation whereby the proceeding which was initiated against the petitioner for alleged violation of sanctioned plan in making construction at 20/3, Thakurdas Surekha Road (Guha Road), Howrah, Ward No.-2, was decided to be withdrawn on condition of payment of Rs. 470548/- within 15 days from the receipt of this order.

The learned advocate for the petitioner submits that the said impugned order dated 17th September, 2015 does not assign any cogent reasons in support of such decision to withdraw the proceeding initiated against the petitioner upon payment of aforesaid sum. It

has also been submitted that it is also unknown why petitioner has been asked to pay Rs. 371997.67 under the heading Other Fees. What are these Other Fees has not been described in the said impugned order.

The learned advocate representing the State-respondents submits that since the proceeding has been initiated against the petitioner by the Howrah Municipal Corporation, they have nothing to submit in this matter and the corporation is the appropriate authority to defend its decision.

Mr. Sandipan Banerjee, learned advocate representing the Howrah Municipal Corporation has submitted that there is breach of sanctioned building plan at the instance of the petitioner while making construction at the aforesaid premises which resulted in initiation of proceeding by Howrah Municipal Corporation and ultimately it has been decided that upon payment of certain fees the proceeding is to be withdrawn.

Having considered the submissions made on behalf of respective parties and in consideration of the order impugned dated 17th September, 2015, it transpires that the said impugned order is devoid of cogent reasons. Why the concerned authority of the corporation has taken decision to withdraw the proceeding against the petitioner has not been described in the order under challenge. It is rightly pointed out by the learned advocate representing the petitioner that under what

head petitioner was asked to pay Rs. 371997.67 along with retention fees within 15 days is also not spelt out in the order itself.

Howrah Municipal Corporation being statutory authority is required to give reasons in support of the decision taken by them as contained by the impugned order dated 17th September, 2015 which appears to be absent in the present case. Accordingly, the impugned order dated 17th September, 2015 stands set aside.

However, this order shall not preclude the concerned authority of Howrah Municipal Corporation to initiate appropriate proceeding against the petitioner in accordance with law.

With the aforesaid directions and observations the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)