

Item No.24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

24.03.2023
Ct-24

WPA 28458 of 2022
M/s. A & J Main & Co.(Engineers) LLP & Anr.
v.
The Howrah Municipal Corporation & Ors.

Mr. Arindam Banerjee
Mr. Priyanko Banerjee
... for the petitioners.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumdr
... for HMC.

The petitioners are aggrieved by the notice issued by Howrah Municipal Corporation directing them to stop work. The petitioners submit that construction work was being carried on the basis of a valid sanctioned plan. It was not proper for the Corporation to direct them to stop work.

A report has been filed before this Court signed by the Assistant Engineer & In-Charge of Building Department, Howrah Municipal Corporation dated March 24, 2023 wherefrom it appears that the stop work notice was issued until rectification of the classification of the land as recorded in the LR Parcha.

It has been admitted by both the parties that the aforesaid notice was issued without affording any opportunity of hearing to the petitioners.

As the petitioners submit that the construction work is being hampered on account of the stop work notice and as the petitioners already have a valid sanctioned plan, accordingly, the Municipal Commissioner, Howrah Municipal Corporation or his delegate is directed to give an opportunity of hearing to the petitioners to defend their case and thereafter pass necessary order in the matter.

The Municipal Commissioner or his delegate shall consider and decide the issue in accordance with law after verifying all the documents that may be produced by the petitioners at the time of hearing.

The proceeding shall be concluded at the earliest but positively within a period of twelve weeks from the date of communication of this order. The fresh order to be passed shall be communicated to the petitioners immediately thereafter.

The respondent authority shall clearly indicate in the reasoned order whether the petitioners will be permitted to resume construction on the basis of the plan already sanctioned in their favour.

As the petitioners have already been issued a stop work notice, accordingly, the petitioners shall be bound to comply the same till the matter is decided finally in terms of the direction passed herein above.

The writ petition stands disposed of.

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