

Item No.239

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

27.09.2023
Ct-24
AGM

WPA 9682 of 2020

Md. Parvez Alam

v.

The Kolkata Municipal Corporation & Ors.

Mr. Nirmalya Kumar Das

...For the petitioner.

Mr. Srijan Nayek

Mr. Subhrangsu Panda

...For KMC.

Mr. Jahar Dutta

Mr. Bipin Ghosh

... for the State.

A report has been forwarded by the engineers of the KMC signed on 27th September, 2023 mentioning that the premises was inspected and it revealed that the person(s) responsible erected several R.C.C. columns in the ground floor level without sanction of any plan.

The department issued stop work notice under Section 401 of the KMC Act, 1980 on 15th September, 2023 and intimated the matter to the Officer-in-Charge, Topsia P.S. The department has processed the case under Section 400 of the KMC Act, 1980.

On a perusal of the report filed by the Corporation, it appears that complaint was lodged before the Corporation in November 2020. The engineers of the

Corporation, for reasons best known to them, failed to take any action in response to the said complaint. Only after direction was passed by the Court for filing report, the engineers of the Corporation visited the site and detected unauthorized construction.

The engineers of the Corporation ought to have realized that not taking prompt action in response to complaint lodged against unauthorized construction gives impetus to dishonest builders to raise construction without any sanctioned plan. Later when steps are sought to be taken to deal with such unauthorized construction, then by that time, third party rights are created and on most occasion the unauthorized constructions cannot be demolished because of legal complications.

The inaction on the part of the engineers to take prompt action in the matter implies that either they are hand and gloves with the dishonest builders and deliberately did not take step despite complaints being lodged before them or simply neglected to act in response to the complaint lodged.

The Commissioner, K.M.C. is directed to take appropriate steps against the errant engineers who failed to take action upon receipt of complaint of unauthorized construction.

The Executive Engineer of the concerned borough is directed to take appropriate steps in accordance with law to deal with the unauthorized construction that has been detected and conclude the proceeding at the earliest but positively within a period of eight weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to communicate this order to the Commissioner, KMC.

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.

(Amrita Sinha, J.)