

25.01.2024
rc/ct.no.10
Item No.06-07

WPA No. 2556 of 2019
with
CAN No. 1 of 2020 (Old NO. CAN/5485/2020)
Sri Kalyan Ghosh
Versus
Howrah Zilla Parishad & Ors.
And
WPA No. 1688 of 2019
Tapas Paul & Ors.
Versus
Howrah Zilla Parishad & Ors.

Mr. Supratik Shyamal
Mr. Anirban Tribedi

...for the petitioner
(for the petitioner in WPA
No.2556 of 2019 and for the
private respondent no. WPA No.
1688 of 2019)

Mr. Soumya Majumder
Mr. Supratim Laha
Mr. Apurba Kumar Ghosh
Mr. Rudranil Ghosh

...for the petitioner
(for the petitioner in WPA
No.1688 of 2019 and for the
private respondent no. WPA No.
2556 of 2019)

Mrs. Mekhla Sinha...for the Howrah Zilla Parishad

Heard learned counsels for the parties.

An order passed by the District Engineer, Howrah Zilla Parishad on December 07, 2018 directs the writ petitioners in WPA No. 1688 of 2019 (hereinafter referred to as "the second writ petition") to demolish/remove the deviated portion of the building in question within a stipulated time frame. The petitioner in WPA No. 2556 of 2019 (hereinafter referred to as "the first writ petition") seeks implementation of the said order. The petitioners in the second writ petition have assailed the said order on several counts.

Learned counsel for the petitioners in the second writ petition submits that the report of the Sub-Assistant Engineer, Howrah Zilla Parishad on the basis of which the order impugned has been passed does not contain proper and specific portion of the allegedly deviated portions of the construction. Also, Section 160A of the West Bengal Panchayat Act, 1973 relied upon by the Zilla Parishad is not applicable in the present case since the said provision of law came into effect on and from November 09, 2017 whereas the building plan was sanctioned in favour of the petitioners on February 01, 2016. The petitioners seek liberty to submit a representation before the concerned authority for regularisation of the alleged deviation in the construction since according to the learned counsel, such deviations are minor and may be regularised by the authority.

Refuting such submission, learned counsel appearing for the petitioner in the first writ petition submits that the entire 5th floor of the building is unauthorised since plan was sanctioned for G+4 building.

Be that as it may, this Court is inclined to hold that since the petitioners in the 2nd writ petition intend to submit a comprehensive representation before the concerned authority seeking regularisation of the deviations, if any, such liberty be granted to the petitioners in the interest of justice.

Learned counsel for the Zilla Parishad submits that such representation ought to be submitted before the District Engineer, Howrah Zilla Parishad who is authorised to deal with the same.

The petitioners in the second writ petition are at liberty to submit representation before the District Engineer, Howrah Zilla Parishad, being the 5th respondent herein, within two weeks from date. The 5th respondent is directed to consider and dispose of the representation within four weeks from the date of receipt thereof upon affording reasonable opportunity of hearing to all concerned including the petitioners in both the writ petitions, in accordance with law.

The decision taken by the authority shall be communicated to the petitioners in both the writ petitions within a week thereof.

With the above observations and directions these writ petitions are disposed of.

The connected application is disposed of accordingly.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)