

M. 400 24.04
Ct .2024
No24
AGM

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

WPA 4716 of 2024

**Md. Talha Sarkar
Vs
State of West Bengal & Ors.**

**Mr. Uday Sankar Chatterjee.
Ms. Rajashree Tah.
Ms. Trisha Rakshit.
Ms. Aishwarya Datta.
... For the petitioner.**

**Mr. Somnath Ganguly.
Ms. Priyamvada Singh.
... for the State.**

**Mr. Sanjib Seth.
Mr. Abhijit Sinha Roy.
... for the Municipality.**

Affidavit-of-service filed in Court today be kept
with the records.

The petitioner's plan proposal for raising
construction has not been sanctioned in view of certain
discrepancy pointed out by the Sub Assistant Engineer of
the Municipality, communicated to the petitioner vide
communication dated 6th December, 2023 by the
Chairman, Memari Municipality.

According to the petitioner, a further representation
clarifying the defects has been filed on 12th December,
2023. The petitioner prays for consideration of the same.

The petitioner prays for a direction upon the
Municipality to cause fresh spot inspection

/enquiry/survey to ascertain the proposed site plan.

It has been submitted that the petitioner has taken loan from a financial institution and on account of non sanctioning of the building plan, the petitioner cannot proceed with the work of construction.

As it appears that the representation filed by the petitioner in response to the queries made by the Sub Assistant Engineer of the Municipality is pending consideration and the petitioner insists that a fresh inspection be caused to ascertain as to whether the mandatory side open spaces and the access has been mentioned in the plan proposal or not, accordingly, the Chairman of the Municipality is directed to cause fresh spot inspection to ascertain as to whether the plan proposal is in accordance with the building Rules. Prior notice of spot inspection shall be served upon the petitioner.

It will be open for the petitioner to take the assistance of an independent surveyor at the time of spot inspection.

If the plan proposal appears to have been rectified and the necessary access and side spaces are marked, then the municipality shall take steps to sanction the plan proposal in accordance with law.

Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order.

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.)