

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 4024 of 2019

Kausick Das

VS

Midnapore Municipality & Ors.

Before : The Hon'ble Justice M.V. Muralidaran

Mr. Jayanta Das,

Ms. Soumitra Ghosh

----- for the petitioner.

Mr. Sujay Bandyopadhyay,

Mr. Subham Saha

-- for Midnapore Municipality.

Hearing concluded on :

05.03.2024

Judgment On :

02.04.2024

M.V. Muralidaran, J.:

Heard Mr.Jayanta Das, learned counsel for the petitioner; Mr.Bandyopadhyay, learned counsel for the respondent Municipality and Mr.Goutam Kr. Das, learned counsel for the seventh respondent.

2. This writ petition has been filed by the petitioner to quash the impugned resolution/order passed by the Chairman, Midanapore Municipality and also seeks direction against the official respondents not to give effect and further effect to the memo as contained in Annexure P-7 and to restrain the private respondent from proceeding with the unauthorized construction being made in terms of the impugned resolution/order as contained in Annexure P-7.

3. The case of the petitioner is that the petitioner and his brother are the owners of the landed property with dwelling house within Mouza-Nabinabag Barabazar, J.L. No.185, R.S Khatian No.288, L.R Khatian No.526, R.S.Plot No.920, L.R Plot No.1509 and R.S. Plot No.919 and L.R. Plot No.1508, measuring an area of 0.0330 acre and the same was

purchased by the petitioner and his deceased unmarried brother Kalyan Das from one Suhas Majumdar under a deed of conveyance dated 1.11.1999. After purchasing the said land, they had constructed a dwelling house thereon as per the plan sanctioned by the Municipal authority and they are residing in the said property. The contiguous to the southern side of the plot and building is owned by the petitioner. There is a shop of the seventh respondent and his deceased brother Lt. Purusottam Chandak, who purchased all that each piece and parcel of land situated Khatian No.292, Plot No.922/1436, Area – 0080 acre from one Surjapada Saha under a sale deed dated 7.12.1994.

4. Further case of the petitioner is that the seventh respondent has illegally and without any sanctioned plan started constructing a three storied dwelling house on his land without leaving any space as per the West Bengal Municipal Act and in contravention with the laid down laws of the Municipal Act. In this regard, the petitioner has made a complaint before the Chairman, Midnapore Municipality and, vide letter dated 11.6.2018, the Chairman directed the seventh respondent not to make any construction until further orders as the said construction was illegal. Even after the receipt of the said letter from the Chairman, the seventh respondent paid no heed and he did not stop his illegal construction. The

construction is being made upon the boundary wall demarcating the petitioner's property with the land of the seventh respondent and he has also opened some windows upon the northern wall of the illegal construction thereby violating the West Bengal Municipal Act and Rules framed thereunder. Such an illegal construction, without obtaining any sanction from the Midnapore Municipality, is liable to be demolished.

5. Earlier the petitioner had filed W.P.No.19931 of 2018 against the illegal/unauthorised construction made by the seventh respondent and by the order dated 19.11.2018, the said writ petition was disposed of directing the Municipality to invoke the provisions of Section 218 of the West Bengal Municipal Act within fortnight from date and regarding the issue as to the nature and extent of the unauthorised construction was keep open which is to be decided in such proceedings. After communication of such order to the Municipal authority, the Chairman of the Municipality, by his notice dated 1.12.2018, intimated the petitioner as well as the seventh respondent about the Board of Councilors meeting.

6. On 5.12.2018, the Board of Councillors meeting was held where the petitioner and the seventh respondent were present through their advocates. According to the petitioner, though the hearing was concluded

on the same day, no copy of the order thereof was handed over to the petitioner, nor communicated to him. Finding no other alternative, the petitioner has made an RTI application seeking copy of the order dated 5.12.2018 before the appropriate authority. After receiving such RTI application, the office of the Chairman of Midnapore Municipality, by a memo dated 15.12.2018 [Annexure-P7], communicated the copy of the order dated 5.12.2018 to the petitioner. In the order communicated by the Chairman as contained in Annexure-P7 some extraneous consideration was extended in favour of the seventh respondent and the same is illegal and in arbitrary manner the unauthorized construction made by the seventh respondent was protected.

7. While passing the resolution dated 5.12.2018, the Municipal authority has acted in blatant violation of the statutory principles of law and had also acted travelling beyond the statutory embargo as has been enumerated, particularly in Section 218 of the West Bengal Municipal Act and the Rules framed thereunder. In fact, while adopting the resolution dated 5.12.2018 and passing the order, the Municipal authority has in heinous manner shifted the burden of unauthorized construction on the shoulder of the petitioner for the reason best known to them. Hence, the present writ petition.

8. The seventh respondent filed affidavit-in-opposition, *inter alia*, stating that the petitioner has filed civil suits, bearing Title Suit Nos.357 and 367 of 2018 in respect of the subject property, wherein no restrained order was passed regarding the construction work or any renovation work of the second floor on the existing first floor of the suit property in question belonging to the seventh respondent. The construction was done with prior approval and sanctioned plan obtained from the appropriate authority. There is no illegality and/or irregularity of the building rules. The construction of ground floor, first floor and subsequently the second floor by the seventh respondent is on his own property without encroaching any portion or adjacent portion of the petitioner.

9. It is stated that in the Board of Councilors meeting held on 5.12.2018, as per the direction of this Court dated 19.11.2018 passed in W.P.No.19931 of 2018, it was clearly established that the entire facts and grievances of the petitioner was not tenable under the statutory provisions of law and after elaborate discussion, the order dated 5.12.2018 came to be passed, which states that the seventh respondent got sanctioned plan for construction of the second floor building over the

existing first floor building and has constructed the same over the existing first floor as per the sanctioned plan. Accordingly, under the order dated 5.12.2018, the order of stop construction as was passed by the Chairman dated 11.6.2018 was withdrawn. Hence, prayed for dismissal of the writ petition.

10. Assailing the impugned resolution/order [Annexure-P7], the learned counsel for the petitioner submitted that Section 218 of the West Bengal Municipal Act postulates the procedure while adjudicating the issue of demolition or alteration of buildings in certain cases and the Local Self Government being the statutory authority cannot any way overlook and/or bypass such stipulation. However, in the case on hand, the respondent Municipality has not only travelled beyond the direction passed in W.P.No.19931 of 2018, but also has wilfully travelled beyond the statutory obligation to protect the seventh respondent in heinous manner.

11. The learned counsel further submitted that while disposing of W.P.No.19931 of 2018, this Court had directed the respondent Municipal authority to invoke the provisions of Section 218 of the West Bengal Municipal Act and to decide the extent and nature of the unauthorized

construction which was kept open to be decided in such proceeding, inasmuch as it appears from the report of the Municipality that the Municipality has taken a *prima facie* view that there were certain deviations which were beyond sanction. The Municipal authority had failed to comply with the dictum as contained in the order dated 19.11.2018 passed in W.P.No.19931 of 2018.

12. The learned counsel for the petitioner would submit that the respondent authorities have acted in blatant violation of the principles of natural justice in adopting the resolution/order and communicating the same as contained in Annexure-P7 without following the embargo as envisaged in Section 218 of the Act. In fact, Section 218 prescribes demolition of unauthorized construction and the Municipal authority is to act on the basis of such stipulations and cannot relax and stretch the embargo of Section 218 to make it redundant.

13. According to the learned counsel, allowing the seventh respondent to carry on and complete the unauthorized construction needs judicial scrutiny and the Municipal authority cannot allow anybody to make any unauthorized construction thereby making the legal provisions as redundant one. Thus, a prayer is made to set aside the impugned

resolution/order dated 5.12.2018 and issue direction for demolition of the unauthorized construction put up by the seventh respondent. In support, the learned counsel for the petitioner has placed reliance upon the following judgments:

- (i) *Agriculture Finance Co. Ltd. v. Micro & Small Enterprises Facilitation Council and another*, (2013) WBLR (Cal) 616.
- (ii) *Archana Devi Prasad v. Pranab Ganguly*, 2019(5) CHN (CAL) 571.
- (iii) *Sanjay Mehta and others v. The Kolkata Municipal Corporation and others*, 2006 SCC OnLine Cal 571.
- (iv) *Sanat Kumar Singha Roy v. Tarak Nath Mondal*, 2019(4) CHN (CAL) 698.
- (v) *Sandhya Pal v. Kolkata Municipal Corporation*, 2019(2) CHN (Cal) 596.
- (vi) *Ram Awatar Agarwal and others v. Corporation of Calcutta and others*, AIR 1982 Calcutta 314.
- (vii) *Dipak Kumar Mukherjee v. Kolkata Municipal Corporation and others*, (2013) 5 SCC 336.

(viii) *Order dated 6.1.2023 in W.P.A.No.3152 of 2020*
[Lakshmi Kanta Jana and another v. State of West
Bengal and others].

14. Per contra, the learned counsel for the contesting seventh respondent submitted that the seventh respondent has constructed his ground floor, first floor and subsequently the second floor on his own rayati property without encroaching any portion or adjacent portion of the petitioner with prior approval of the Municipal authorities. The petitioner had filed civil suits in respect of the subject property where he has failed to establish his bonafide claim as regards stop construction of the second floor in the existing first floor building of the seventh respondent and that the construction also done with the prior approval and sanctioned plan obtained from the appropriate authority. Therefore, there is no illegality and/or irregularity of the building rules and also the construction of the seventh respondent.

15. The learned counsel further submitted that after due consideration, the Municipal authority held that it is not the fact that there is no sanction of building plan and, as such, the construction made by the seventh respondent with some deviation is considered as a natural

justice and the stop construction order was passed by the Chairman was withdrawn. According to the learned counsel, there is no infirmity in the order/resolution dated 5.12.2018. Thus, a prayer is made to dismiss the writ petition. In support, the learned counsel placed reliance upon the following orders of this Court:

- (i) *Order dated 18.1.2022 passed in MAT 1166 of 2021 with IA No. CAN 2 of 2021 [Krishnendu Roy v. State of West Bengal and others].*
- (ii) *Order dated 13.8.2019 passed in CAN 10307 of 2018 in MAT 1588 of 2018 [Sk. Alamgir v. The Kolkata Municipal Corporation and others].*
- (iii) *Order dated 3.12.2013 passed in W.P.No.1009 of 2013 [Dr. Shaikat Gupta v. The Kolkata Municipal Corporation and others].*

16. The learned counsel for the respondent Municipality submitted that as against the order dated 5.12.2018, the petitioner has filed an appeal and, therefore, the present writ petition is not maintainable and the same is liable to be dismissed. Further, upon perusing the materials on record and upon spot inspection done by the Municipal authorities, the impugned order/resolution came to be passed. There is no arbitrariness

in passing the said order. Thus, a prayer is made to dismiss the writ petition.

17. This Court considered the rival submissions and also perused the materials available on record.

18. The present writ petition has been filed by the petitioner challenging, *inter alia*, the order passed by the Board of Councilors of Midnapore Municipality communicated by a memo dated 15.12.2018 issued by the second respondent.

19. The case of the petitioner is that the seventh respondent has constructed his building as well as the first and second floor over the common boundary wall and also encroaching the property of the petitioner and has deviated the sanctioned plan. The said fact was admitted by the Municipal authority concerned in the report submitted in W.P.No.19931 of 2018. Further case of the petitioner is that the petitioner has all along raised an objection against the construction and despite the pendency of the present writ petition, the seventh respondent in connivance with the Municipal authority has undertaken the unauthorized construction.

20. The specific case of the petitioner is that proceeding under Section 218 of the West Bengal Municipal Act was conducted and an order was passed in a perfunctory manner by the respondent Municipal authorities only for the purpose of protecting the seventh respondent and, as such, the impugned order [Annexure-P7] is required to be interfered with by this Court.

21. As the petitioner challenges the order dated 5.12.2018 passed by the Chairman, Midnapore Municipality, for proper adjudication, the said order [Annexure P-7] is quoted hereunder for ready reference:

"ORDER SHEET

Extract copy of the decision dated 05/12.18 passed by the Board of Councillor in view of the order of the Hon'ble Justice Calcutta High Court dated 19/11/2018 in connection with writ petition No.19931(W) of 2018.

In view of the order of the Hon'ble Justice Debagsu Basak of Calcutta High Court passed on 19/11/2018 in W.P.No.19931(W) of 2018 filed by the petitioner Kausic Das against Bal Krishna Chandak S/o. Lt. Hazarimal Chandak to initiate a proceeding and to dispose of the same by 12 weeks from the date of circulation of the said order to the Chairman, Midnapore Municipality, the matter is placed before the Board of Councillors meeting

after giving prior notice to the petitioners as well as to the Pvt. Respondents for their making appearance before the Board as an opportunity to place their grievances before the Board at the time of hearing.

As per the said notice the parties appeared and filed their respective Hazira.

The matter is taken up for hearing by the Board of Councillors at 3.00 P.M.

Ld. Advocate Debasish De on behalf of the petitioner Kausic Das submits that the Pvt. respondent Bal Krishna Chandak has made his construction over 1st floor building unauthorisedly without leaving any space as required by law and without any sanction of plan from Midnapur Municipality and in view of representation before this Municipality though stop construction notice Vide Memo No.945/) Dated 11/06/18 was issued to the Pvt. respondent by this administration yet no action was taken and as such the petitioner was compelled to file the above writ petition and on the basis of the said writ petition the Hon'ble Justice of Calcutta High Court passed an order on 09/10/2018 directing municipality for inspection and submission of report and accordingly the SAE of Municipality forwarded the same to his Ld. Advocate Anami Sikdar for presenting the same before the Hon'ble High Court in compliance of the said order. The Hon'ble Justice of Calcutta High Court has taken a

prima facie view that there are certain deviations which are beyond sanction as appears from the report so the Hon'ble Justice has passed an order on 19/11/2018 directing the Chairman, Midnapur Municipality to invite meeting of the Board of Councillors and to take decision as per direction of the Hon'orable High Court.

The Pvt. respondent has made his construction without plan by violation of Building Rules, so the illegal construction to be demolished as per provisions of WBM Act.

On the other hand Ld. Advocate Somasish Panda on behalf of Pvt. respondent submits that his client Pvt. respondent has not acted any illegal construction beyond the sanctioned plan.

The respondent has got sanction of his plan for construction of 2nd floor building over his existing 1st floor building and has constructed the same over the existing 1st floor building as per sanctioned plan. The place is commercial in nature. Construction of building by both the parties have been made on compromise basis without leaving any space as required by law. The petitioner has made his construction accordingly and this respondent has not put any objection for the said construction & in turn for the earlier construction of ground floor & 1st floor of this respondent the petitioner

did not raise any objection and now by the construction over the existing 1st floor there is not creating any obstruction of using his passage by the construction of 2nd floor building over the 1st floor, but the petitioner by an ill motive to stop the construction of the respondent has filed false petition before the Hon'ble high Court on false representation. So the respondent may be considered from the raising objection against his construction.

After hearing submission of both the parties and on going to the report of the SAE of this administration apparently it appears that the Pvt. respondent has committed breach of the Building Rules, but the petitioner as raised objection to the construction of Pvt. respondent has failed to show his paper regarding his construction of his building by the side of the building of the Pvt. respondent by leaving space as require by WBM Act & Rules and the petitioner did not raise any objection to the construction of the Pvt. respondent when he made his ground floor and 1st floor of the disputed building, it means the construction of both the parties as situated at the place Barabazar which is a commercial area all the building are set up therefor commercial purposes. So, in the earlier construction of the parties nobody had made any objection to the construction of each other and it was constructed on mutual basis. Now the plan which are generally

sanctioned by the Municipality by maintaining the rules as framed under the law, but in practice if the parties mutually agreed upon to construct their building by themselves on mutual basis to meet their convenience and inconvenience for their use and Occupation though that attracts the provisions of law yet it may considered because the 2nd floor building must be constructed over the existing 1st floor and there cannot be any opportunity to leave space to build up the 2nd floor building without the base of the 1st floor building. More over the petitioner himself has constructed his building without leaving any space as required by law.

So, in view of the above perspective and hearing submission of both the parties and keeping in mind the direction of the Hon'ble High Court this board do not take the matter as an exception as the matter is concerning over the existing 1st floor building for which there was consent of the petitioner to the said construction. So it is not the fact that there is no sanction of building plan and as such the construction as made by the Pvt. respondent with some deviation is considered as a natural Justice and the stop construction order as was passed by the Chairman of this administration Vide Memo No.945/P/3 dated 11/06.18 is hereby withdrawn.

The matter is thus disposed of.

No order as to costs.

On prayer of the parties the true copy of the order to be communicated to the parties on payment of requisite fees, if there be any."

22. The basis on which the impugned order/resolution came to be passed by the Chairman, Midnapore Municipality is pursuant to the order of this Court dated 19.11.2018 passed in W.P.19931 (W) 2018. The order of this Court in the said writ petition reads thus:

"Report as called for by order dated October 9, 2018 filed in Court be taken on record.

Learned advocate appearing for the Municipality circulates copy of the report amongst the learned advocates for the private parties in Court.

It appears from the report that the Municipality has taken a prima facie view that, there are certain deviations, which are beyond sanction.

In such circumstances, the Municipality will invoke provisions of Section 218 of the West Bengal Municipal Act, 1993 within a fortnight from date. The issue as to the nature and extent of unauthorised construction is kept open to be decided in such proceeding. It will

afford a reasonable opportunity of hearing to the private parties in such proceeding. It will endeavor to conclude such proceeding within period of 12 weeks thereafter. W.P.19931 (W) 2018 is disposed of.

No order as to costs.

Urgent certified Website copy of this order, if applied, be supplied to the parties, upon compliance of all requisite formalities.”

Thus, while disposing of the said writ petition, this Court observed that the issue as to the nature and extent of the unauthorized construction is kept open to be decided by the Municipal authorities.

23. It is not the case of the petitioner that due opportunity was not afforded by the authority before passing the impugned order. As could be seen from the impugned order, the petitioner has participated in the proceedings through his counsel and the learned counsel for the petitioner has made his submissions. Similarly, the seventh respondent also appeared before the authority through his counsel. Upon hearing the arguments of both the parties i.e. the petitioner and the seventh respondent, the Chairman, Midnapore Municipality held “*the report of the SAE of this administration apparently it appears that the Pvt. respondent*

has committed breach of the Building Rules, but the petitioner as raised objection to the construction of Pvt. respondent has failed to show his paper regarding his construction of his building by the side of the building of the Pvt. respondent by leaving space as require by WBM Act & Rules and the petitioner did not raise any objection to the construction of the Pvt. respondent when he made his ground floor and 1st floor of the disputed building”.

24. Placing reliance upon the decision in the case of *Sandhya Pal*, supra, the learned counsel for the petitioner submitted that if neighbours claim to be effected by reason of the unauthorized construction, the authority concerned has right to initiate demolition proceedings.

25. Similarly, by placing reliance upon the decision in the case of *Sanat Kumar Singh Roy*, supra, the learned counsel argued that Section 218 specifies that if the Board of Councillors is satisfied that the building or any erection is unauthorisedly made contrary to the sanctioned plan or permission, the Board of Councillors shall make necessary order directing that such erection, alteration, addition, projection be demolished or altered.

26. According to the learned counsel for the petitioner, the illegal and unauthorized construction of the building and other structures not only violate the municipal laws and the concept of planned development of the particular area, but also affect various fundamental and constitutional rights of other persons. Reliance is placed the decision of the Apex Court in the case of *Dipak Kumar Mukherjee*, supra.

27. It is also the submission of the learned counsel for the petitioner that the resolution/order of the Board of Councillors [Annexure P-7] cannot override the statutory provisions of law.

28. Section 218 of the Act provides the procedure that has to be followed by the Board of Councillors of a municipality upon detection of erection of any building which could be characterized as unauthorized. Power is reserved to the Board of Councillors to direct demolition or alteration.

29. It is trite that any construction made beyond the sanctioned strength shall be considered unauthorized and the same should be demolished.

30. Admittedly, the impugned order was passed pursuant to the direction of this Court in W.P.19931 (W) 2018 that too after affording reasonable opportunity to both the parties. If it is only found that unauthorized construction is raised by the seventh respondent, the same shall be demolished. In the case on hand, the observation of the Chairman in the impugned order is to the effect that "*the petitioner himself has constructed his building without leaving any space as required by law*". Thus, according to the authority, the construction of the petitioner is without leaving any space as required by law. The relevant rule provides leaving of space in between the houses. However, in practice, if the parties mutually agreed upon to construct their building by themselves on mutual basis to meet their convenience and inconvenience for their use and occupation though that attracts the provisions of law, yet it may be considered because the second floor building must be constructed in the existing first floor and there cannot be any opportunity to leave space to build up the second floor building without the base of the first floor building.

31. Admittedly, nothing is on record to show that while constructing the ground floor and the first floor, the petitioner has made an objection to the same. Therefore, as rightly observed in the impugned order, in

the earlier construction of the parties nobody had made any objection to the construction of each other and it was constructed on mutual basis. Thus, in the given facts and circumstances of the case, the decisions in the cases of *Archana Devi Prasad*, *Sanat Kumar Singha Roy*, *Sandhya Pal*, supra, of this Court and *Dipak Kumar Mukherjee*, supra, of the Apex Court relied upon by the learned counsel for the petitioner are not helpful to the case of the petitioner.

32. In *Agriculture Finance Company*, supra, this Court held that “when the issue that is raised is one of gross or palpable violation of the principles of natural justice, the availability of an alternative remedy is no bar to the Court exercising its authority under Article 226 of the Constitution if the body rendering the award is amenable to the writ jurisdiction of the Court as being a State or other authority within the meaning of Article 12 of the Constitution”. This Court is in agreement with the said proposition.

33. According to learned counsel for the petitioner, the private right of easement and prescription of the petitioner are sought to be asserted by filing the civil suits whereas grievance expressed in this writ petition is related to statutory violations and, therefore, the Writ Court ought to

entertain the writ petition. Further, according to the learned counsel for the petitioner, as per Section 218 of the Act, the aggrieved person alone can approach the appellate authority. The aggrieved person means the person who constructed the building unauthorisedly and he only can file appeal. However, in the case on hand, the petitioner is a third party and that is the reason the petitioner has invoked the writ jurisdiction. Hence, the writ petition of the petitioner is maintainable. This Court is not agreeable with the said argument canvassed by the learned counsel for the petitioner.

34. In the order under challenge, the petitioner was heard fully by the authority and, if the petitioner is aggrieved by the said order, he has to work out his remedy in the manner known to law. Bypassing such remedy, the petitioner cannot invoke the writ jurisdiction, as the petitioner was party to the impugned proceedings.

35. It is not that statutory violations cannot be voiced in the course of civil proceedings before the Civil Court. The petitioner, by filing the present writ petition, has been pursuing the writ remedy as a parallel remedy.

36. If it is the allegation of the petitioner that the seventh respondent has no right to construct over the common boundary wall, certainly, he has to work out his remedy in the manner known to law and the same cannot be adjudicated under Article 226 of the Constitution of India.

37. As stated supra, with regard to the present construction of the second floor, the Chairman of the Midnapore Municipality observed that *"there cannot be any opportunity to leave space to build up the second floor without the base of the first floor building"*. The Chairman further observed that *"it is not the fact that there is no sanction of building plan and as such the construction as made by the private respondent with some deviation is considered as a natural justice"*. Such a finding arrived at by the Chairman cannot be faulted with, for the reason that the petitioner has earlier allowed the seventh respondent to make construction of the ground floor and first floor without leaving space between the buildings. As stated supra, it is the admitted case of the petitioner that he has also constructed the building without leaving space. When such being the mutual agreement between the parties, later on, changing the mind, the petitioner cannot now question the construction of the second floor of the seventh respondent. If any easementary right is

affected, the aggrieved party has to work out the remedy in the manner known to law.

38. If really the petitioner is aggrieved by the impugned order, he has a remedy of appeal. Section 218(3) of the Act provides that an appeal against an order made by the Board of Councillors under Section 218 shall lie with the Court having jurisdiction.

39. It is settled law that generally the Writ Court will not exercise the high prerogative writ jurisdiction under Article 226 of the Constitution of India where an alternative remedy is available to the aggrieved person.

40. As could be seen from the adjudication papers, the order of this Court dated 20.2.2024 records that as against the order dated 5.12.2018 passed by the Chairman, the petitioner has filed an appeal. When such being the position, the petitioner cannot maintain the present writ petition challenging the order dated 5.12.2018 passed by the Chairman, Midnapore Municipality. He can very well pursue the appeal as per law.

41. It is apposite to note that before filing the present writ petition, the petitioner has filed two civil suits for declaration and injunction. On

the same cause of action, both proceedings before the High Court and the Civil Court cannot be entertained in view of Section 11 of the Code of Civil Procedure, 1908. Therefore, this Court is of the view that there is no merit in the writ petition and the same is liable to be dismissed.

42. Accordingly, the writ petition is dismissed. No costs.

(M. V. Muralidaran, J)