

07
18.04.2024
AGM

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

W.P.A 8432 of 2024

**Sangram Dhar
-versus
The Panihati Municipality & Ors.**

Mr. Sabyasachi Mukherjee.
Mr. Bibek Dey.
Ms. Debarati Chowdhury.
Mr. Syed Neaz Ahmed.
... for the petitioner.

Mr. Soumajit Bhatta.
... for the Municipality.

The petitioner is aggrieved by the communication made by the Chairman, Panihati Municipality dated 5th March, 2024 by which the petitioner has been requested to demolish the construction made on the undivided property.

Admittedly, there is no order of demolition which is required to be complied. It is merely a communication from the Chairman of the Municipality with a request to demolish the construction made.

According to the provisions of the West Bengal Municipal Act, 1993, the Board of Councillors is the competent authority to pass an order of demolition. The Chairman of the Municipality cannot usurp the power of the Board of Councillors.

As there is no formal order of demolition, accordingly, it was improper for the Chairman of the Municipality to request demolition of the construction being made.

In view of the above, the impugned communication of the Chairman with a request to demolish the construction is held to be an absolute illegal one. The same does not have the sanction of law.

The impugned communication dated 5th March, 2024 is set aside and quashed.

The setting aside of the communication by the Chairman will not stand in the way of the Board of Councillors, Panihati Municipality to take steps, in accordance with law, against any illegal construction that may be detected at the subject premises.

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.)