

W.P.A. 9574 of 2019

**Bikash Shaw
Vs.
South Dum Dum Municipality & Ors.**

**Mr. Diptomoy Talukder
Ms. Chanchala Chatterjee**

...for the petitioner

**Ms. Mousumi Bhawal
Mr. Aman Gupta
Mr. Ishan Bhattacharya
...for the South Dum Dum Municipality**

**Mr. Indranil Nandi
Mr. Sayak Konar**

...for the respondent nos. 6 to 8

Petitioner is claiming to be one of the occupants of 10, Dum Dum Cossipore Road. By presenting a complaint dated 21st May, 2019 addressed to the concerned authorities of South Dum Dum Municipality he raised his grievance relating to unauthorized construction alleged to have been made at the aforesaid premises.

During course of hearing petitioner has also placed the order dated 29th March, 2019 passed by the Board of Councillors of the Municipality which was communicated by the Chairman of the said Municipality vide memo dated 18th April, 2019. The said decision was taken by the Board of Councillors in terms of the order passed by the coordinate Bench on 21st February, 2019 in another

writ petition being WPA 2300 of 2019 (Shanti Shaw & Anr. Vs. The South Dum Dum Municipality & Ors.). It has been submitted on behalf of the petitioner that notwithstanding the order passed by the Board of Councillors dated 29th March, 2019 his complaint dated 21st May, 2019 needs to be considered in accordance with law.

The learned advocates representing the municipality and the respondent nos. 6 to 8 have jointly opposed the prayer of the petitioner on the count that already on similar representation made by the petitioners in the writ petition being WPA 2300 of 2019 a decision was taken on 29th March, 2019 wherein it was found that the complaint of the petitioners in WPA 2300 of 2019 was not correct since construction was made in terms of the building plan no. 386 dated 17th November, 2018 and subsequent thereto, occupancy certificate was issued on 21st January, 2019.

It is submitted that in the event direction is given upon the Board of Councillors to take decision afresh on the complaint of the petitioner dated 21st May, 2019 that would cause replication of the previous order dated 29th March, 2019.

Having considered the submissions made on behalf of the parties and on perusal of the materials available on record, it appears that no challenge has been thrown to the order dated 29th March, 2019 of the Board of

Councillors which was passed pursuant to the order of the coordinate Bench dated 21st February, 2019. Petitioner in the present writ petition is similarly circumstanced as that of the petitioners in WPA 2300 of 2019 since both are residing at the premises in question. Therefore, the direction, if passed thereby, directing the Board of Councillors of the Municipality to take fresh decision on the complaint dated 21st May, 2019 on drawing a proceeding under Section 218 of the West Bengal Municipal Act, 1993, that would replicate the order which has already been passed in the previous proceeding.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to take steps in accordance with law against the order dated 29th March, 2019 passed by the Board of Councillors, if so advised.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)