

WPA 15369 of 2024
With
CAN 1 of 2024
Prakash Kumar Pal
Vs.
The State of West Bengal & Ors.

Mr. Debjit Mukherjee,
Mr. Saikat Chatterjee,
Mr. Puranjan Pal

...for the Petitioner

Mr. Suddhadev Adak,
Ms. Richa Pramanik,
Ms. Ahana Banerjee

...for the Municipality

Mr. Niladri Sekhar Ghosh,
Ms. Sompurna Chatterjee,
Mr. Sourav Mondal,
Ms. Labani Sikder,
Mr. Rony Mondal

...for Respondent Nos. 11 & 12

Mr. Tulshidas Roy

...for the State

The petitioner challenges an order dated February 28, 2024, passed by the Executive Officer, Arambagh Municipality refusing to demolish an alleged unauthorised construction.

It appears that a Co-ordinate Bench in the earlier round of writ petition (WPA 25549/2023), filed by the writ petitioner, directed the Arambagh Municipality to decide the allegation of unauthorised construction against respondent nos. 11 & 12 after giving an opportunity of hearing to all concerned.

By filing this writ petition, the petitioner alleges that though a notice dated March 11, 2024, was issued

requesting the petitioner to attend a hearing on March 18, 2024, before the Chairman, Arambagh Municipality, no hearing took place following the notice.

The petitioner alleges that even before the issuance of notice dated March 11, 2024, without giving an opportunity of hearing, Executive Officer, Arambagh Municipality had passed the impugned order dated February 28, 2024.

Learned advocate appearing for respondent nos. 11 & 12 submits that a hearing did take place on March 18, 2024, but the date was wrongly typed as February 28, 2024, by referring to the prayer 'd' of the writ petition.

Without delving into the dispute, I am of the view that since the matter involves demolition of a building, the Board of Councillors, Arambagh Municipality should have adjudicated the issue. The Executive Officer, Arambagh Municipality lacked the jurisdiction to decide a demolition case. Accordingly, the order dated February 28, 2024, is set aside.

The Municipality shall issue a fresh notice to the petitioner. The Board of Councillors of the said Municipality shall take a decision in compliance with

the order dated January 9, 2024, passed in WPA 25549 of 2023, after hearing the petitioner as well as respondent nos. 11 and 12 and pass a reasoned order in accordance with law within a period of three months from the date of communication of this order.

WPA 15369 of 2024 along with **CAN 1/2024** is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)