

Item No. ML. 78
10.05.2024
AGM

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

W.P.A. 14940 of 2022

**South End Education Society & Anr.
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Arindam Banerjee.
Mr. Heramba Narayan Datta.
...For the Petitioners.**

**Mr. Sandipan Banerjee.
Mr. Ankit Sureka.
Mr. Sobhan Majumdar.
Ms. Shetparna Ray.
... For the HMC.**

Leave is granted to the learned advocate for the petitioners to file vakalatnama in course of the day.

Affidavit-of-service filed today is kept with the records.

The petitioners complain of illegal and unauthorised construction at the behest of the private respondents.

The legal representation filed on behalf of the petitioners is alleged to be kept pending.

In view of the order that I propose to pass none of the non-appearing respondents would be prejudiced if the writ petition is disposed of in the following manner.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the Commissioner, Howrah Municipal Corporation or his delegate to consider and dispose of the representation made by the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, at the earliest, but positively within a period of three months from the date communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioner, immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The aforesaid respondent will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without a sanctioned plan.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 15.03.2022 to the aforesaid respondent at the time of communicating the order of the Court.

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.)