

WPA 16507 of 2024
M/s. Unique Construction, represented by Md. Nasim & Anr.
Vs.
The Howrah Municipal Corporation & Ors.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. K. Raihan Ahmed,
Mr. R. Das,
Mr. Soumava Santra,
Mr. Tapas Chatterjee

...for the Petitioner

Mr. Sandipan Banerjee,
Mr. Ankit Surekha

...for HMC

In the earlier round of writ petition, WPA 21048 of 2022, the petitioner challenged a demolition notice dated December 14, 2021, in connection with premises no. 8/2, Baxarah Village Road, Post Office – AJC Bose Botanical Garden, District- Howrah, PIN – 711 109 under Ward No. 4, Howrah Municipal Corporation, which was disposed of by a Co-ordinate Bench of this Court by an order dated February 13, 2023, directing, inter alia, the Howrah Municipal Corporation to take steps in accordance with law.

In compliance with the said order dated February 13, 2023, the Howrah Municipal Corporation by the order dated May 28, 2024, impugned in this writ petition directed the petitioner to demolish the unauthorised area, as mentioned in the said letter.

Learned advocate appearing for the petitioner submits that the petitioner had a sanctioned plan and he

constructed the relevant building in terms of the sanctioned plan. The deviations, as pointed out by the Corporation, are minor in nature. The petitioner made a representation before the Corporation for regularisation of the said unauthorised construction but the said prayer has not been considered.

He places reliance upon a judgment passed by a Division Bench of this Court in MAT 860/2023 (Soumitra Mukherjee Vs. The Howrah Municipal Corporation & Ors.) to submit that the Howrah Municipal Corporation is authorised to regularise the construction under third proviso of Section 177 (1) of the Howrah Municipal Corporation Act, 1980.

It appears that the petitioner has not made an application for regularisation of unauthorised construction before the Commissioner, Howrah Municipal Corporation.

The Act of 1980 authorizes the Commissioner to consider the regularization of the unauthorised construction.

In that view of the matter, I dispose of this writ petition granting liberty upon the petitioner to make a representation before the Commissioner, Howrah Municipal Corporation seeking regularisation of the unauthorised construction, as indicated in the impugned notice dated May 28, 2024 issued by the Officer-in-Charge, Borough – VI, Howrah Municipal Corporation.

If such representation is made within a period of two weeks from date, the Commissioner, Howrah Municipal Corporation shall consider the said prayer in accordance with law within two months thereafter.

The petitioner should be given an opportunity of hearing by the Commissioner in arriving at the decision.

Needless to mention that the pending consideration of the prayer for regularisation, the Corporation shall not proceed with the demolition order in terms of the impugned notice.

WPA 16507 of 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.)