

WPA 20208 of 2024
With
CAN 1 of 2024
Sanei Bikes Private Limited & Anr.
Vs.
The Biddhannagar Municipal Corporation & Ors.

Mr. Shuvasish Sengupta,
Mr. Manish Shukla,
Mr. Anindya Bose,
Mr. Abhrajit Roy Chowdhury,
Ms. Ivy Banerjee

...for the Petitioners

Mr. Sirsanya Bandopadhyay,
Mr. Arka Kr. Nag,
Mr. Tirthankar Dey

...for BMC

A demolition order has been issued in respect of the construction at Plot No.463, Khatian No.30/3, Rajarhat, North-24 Parganas.

The learned advocate appearing for the petitioner submits that the construction on the subject land is temporary in nature and, therefore, no demolition order should have been passed with regard to the said construction.

Mr. Sirsanya Bandopadhyay, the learned advocate appearing for the Bidhannagar Municipal Corporation, submits that the land in question is classified as "pukur" in the relevant land records. Consequently, the Commissioner of the Bidhannagar Municipal Corporation passed the order dated March 23, 2024, in the exercise of powers conferred under the West Bengal Inland Fisheries Act, 1984.

Upon perusal of the order, I am of the view that the order dated March 23, 2024, has been passed under the West Bengal Inland Fisheries Act, 1984. It is immaterial which specific section of the Act has been cited in the impugned order, as the Commissioner is duly empowered under the provisions of the West Bengal Inland Fisheries Act, 1984. Therefore, mentioning of provisions of the other Act shall not invalidate the order.

Although Mr. Bandopadhyay has suggested that the order was passed under the provisions of the West Bengal Municipal Corporation Act, 2006 also, I am not persuaded by this argument. The orders under both Acts could not have been passed through a common process.

Since this Court is of the view that the impugned order has been passed under the West Bengal Inland Fisheries Act, 1984, it does not preclude the Corporation from initiating fresh proceedings, should it so desire, under the West Bengal Municipal Corporation Act, 2006, with respect to the alleged unauthorized construction.

In light of the above, I grant a limited stay on the order dated March 23, 2024, for a period of one month from the date of this order, insofar as it pertains to the direction for demolition of the alleged unauthorized construction. Should the petitioner wish to appeal the order dated March 23, 2024, before the appropriate authority, the continuation of the said order beyond the

stated period shall be at the discretion of the appellate authority. However, I make it clear that the appellate authority shall decide the appeal without being influenced by any observations made by this Court.

I am not inclined to interfere further with this writ petition. I grant liberty to the petitioner to file an appeal in accordance with the law.

WPA 20208 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.)