

13
08.01.2024
d.p.

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

W.P.A 19649 of 2023

**Bhaskar Trivedi & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Atarup Banerjee,
Mr. Sunny Nandy,
Mr. Nurnobi Seikh.
...For the Petitioners.**

**Mr. Sounak Bhattacharya.
...For the Asansol Municipality
Corporation.**

**Mr. Lalit Mohan Mahata,
Mr. Jagabandhu Roy.
...For the State.**

**Mr. Swarup Banerjee,
Mr. Sajal Kumar Ghosh.
...For the Added Respondent.**

Asansol Municipal Corporation passed an order of demolition of the alleged unauthorized construction made by the petitioners on 29th November, 2023 relying upon a complaint lodged by the private respondent on 9th June, 2022.

It appears from the documents annexed to the writ petition and upon hearing the submissions made on behalf of all the parties that though site inspection was conducted and an opportunity of hearing was also given to the parties but the complaint which was lodged against the writ petitioners alleging unauthorized construction was never served upon the petitioners.

The petitioners attended the hearing without knowing the contents of the complaint.

According to the Corporation, the construction was made without any sanctioned plan. According to the private respondent, construction has been made upon encroaching their private land.

The writ petitioners ought to know what exactly is the allegation against them for the purpose of properly defending their stand before the Corporation. It appears that there has been violation of the principle of natural justice in not forwarding the copy of the complaint to the petitioners.

In view of the above, the impugned order of demolition dated 29th November, 2023 is liable to be set aside and is, accordingly, set aside.

The Asansol Municipal Corporation is directed to forward the complaint to the petitioners. The petitioners shall be permitted to file an objection to the complaint and place all necessary documents on record in support of their stand.

After exchange of all documents by and between the parties, the Corporation shall afford an opportunity of hearing to all the parties and thereafter, pass a reasoned order. If unauthorized construction is detected, necessary consequential steps shall be taken in accordance with law. The Corporation shall take steps in the matter at the earliest.

It is made clear that this Court has not entered into the merits of the order of demolition. The same is

set aside only on the ground of non-compliance of the principle of natural justice.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)