

02.09.2024
Sl. No. 138
AKG
Ct. No. 15

WPA 21726 of 2024
Abdul Khalekh
-vs-
The State of West Bengal & Ors.

Mr. Subir Sanyal,
Mr. R. P. Motilal,
Mr. Prabitra Biswas
...for the Petitioner

Mr. Supriyo Ram Chowdhury,
Mr. Sankar Ghosh
...for the Municipality

Mr. Somnath Ganguly,
Mr. Rajaram Banerjee
...for the State
Mr. Sagnik Chatterjee
...for Respondent Nos. 9 & 10

Let the affidavit of service filed by the petitioner
be kept with the records.

The petitioner challenges a demolition order
dated August 7, 2024, passed by the Chairman,
Barasat Municipality, in compliance with an order
dated November 18, 2022, passed by a Co-ordinate
Bench of this Court in WPA 20776/2022, filed by
respondent nos. 7 & 8.

In considering the grievance of respondent nos.
7 & 8, the Municipality found the following illegalities
in the relevant construction:

- 1) “The construction of some cantilever projection beyond the sanction plan.**
- 2) Sanctioned covered area of G+4 building was 1263 square feet each floor wherein Mr. Abdul Khalekh constructed 1979 square feet each floor i.e. deviation in each floor is occurred as 716 square feet.**

Such deviation does not fall under the expression “minor deviation”.

Stop work notices were issued on 20.07.2019 and 05.09.2019 by Barasat Municipality upon the Respondent no. 7 after getting the inspection report. Request of the Municipality to Officer-in-Charge, Barsat Police Station for lodging an FIR against the Respondent no. 7 was further made on 13.09.2019.”

Mr. Subir Sanyal, learned advocate appearing for the petitioner has drawn attention of this Court to a subsequent sanctioned plan dated January 20, 2020, which was not considered by the Chairman, Barasat Municipality in passing the order impugned dated August 7, 2024. Mr. Sanyal submits that the relevant construction has been raised in conformity with the revised sanctioned plan.

In the aforesaid facts, I am not inclined to keep this writ petition pending. I keep the order dated August 7, 2024, in abeyance for a period of six weeks from date granting liberty upon the petitioner to produce the sanctioned plan dated January 20, 2020, within a period of ten days from date before the Municipality. The Municipality shall hear the matter afresh after giving an opportunity of hearing to the petitioner as well as respondent nos. 7 & 8 and pass a reasoned order. The entire exercise shall be completed within three weeks from date.

Accordingly, **WPA 21726 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.)