

Item No.16

02.01.2024

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 24024 of 2023
Sri Shubhamay Pakhira

v.

The State of West Bengal & Ors.

Mr. Uttam Kumar Bhattacharya
Mr. Kaustav Mishra
... for the petitioner.

Mr. Suhrid Sur
Ms. Shebatee Datta
Mr. Babita Dey
... for the respondent no. 10.

Ms. Mekhla Sinha
... for the HJP.

Ms. Rama Halder
... for the State.

The petitioner is aggrieved by the order dated August 24, 2023 passed by the District Engineer, Howrah Zilla Parishad.

It has been submitted that the District Engineer of the Howrah Zilla Parishad is not the competent authority to pass the order of demolition. Reliance has been placed on the West Bengal Panchayat (Amendment) Act, 2017.

It appears from the Amendment Act that where any new structure or new building or any addition to any structure or building is being or has been erected or made in contravention of the provision of sub-section 1 of Section 8, the matter shall be heard by a Hearing Officer who shall preferably be a retired senior

Government Officer with the experience of having worked as Magistrate and shall be appointed for the Zilla Parishad by the State Government.

The Hearing Officer shall, after giving the owner an opportunity of being heard, submit his recommendation to the Executive Officer of the Zilla Parishad. The Executive Officer of the Zilla Parishad shall take a decision for demolition within the period as specified in the order and in default to issue direction to the Sub-Divisional Officer concerned to effect the demolition and recover the cost thereof from the owner as public demand.

In the present case it appears that the matter has not been heard by the Hearing Officer in accordance with the Amendment Act. The District Engineer of the Zilla Parishad has passed the order of demolition. The same is absolutely contrary to the provisions of the Amendment Act.

In view of the above, the impugned order is liable to be set aside and, is, accordingly set aside.

The competent authority is directed to take necessary steps in the matter in accordance with law at the earliest but preferably within a period of twelve weeks from the date of communication of this order.

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.

sh

(Amrita Sinha, J.)