

15-04-2024
Item No.25
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.27267 of 2022
Archana Deb nee Sarkar
-vs-
The State of West Bengal & Ors.

Mr. Sandip Roy
Ms. Paramita Dey
Ms. Manisha Paswan ...for the petitioner

Mr. Arijit Dey ...for the municipality

Mr. Pratik Dhar, sr. adv.
Mr. Aritra Roychowdhury ...for respondents 9-11

Mr. Saikat Chatterjee
Mr. Debal Das
Mr. Puranjan Pal ...for respondent no.12

The petitioner complains of illegal and unauthorised construction.

It appears that in respect of the self-same construction, an earlier writ petition being WPA No.16467 of 2022 was filed by one Surajit Mitra @ Nanu Mitra and an order was passed therein on September 28, 2022 with a direction upon the Board of Councillors of Baranagar Municipality to comply with the direction passed on July 22, 2021 in another writ petition being WPA No.11210 of 2021 filed by Archana Deb nee Sarkar, the petitioner in the instant writ petition, after giving a fresh opportunity of hearing to both the parties, and that the entire exercise was directed to be concluded within eight weeks from the date of communication of that order.

It appears that hearing was conducted on December 21, 2022 by the Board of Councillors of the municipality, but the matter was deferred awaiting a decision in the present writ petition.

Since, it appears that the final order has not been passed by the Board of Councillors of Baranagar Municipality till date, accordingly, the Board of Councillors is directed to immediately act in accordance with the direction passed on September 28, 2022 in WPA No.16467 of 2022 without any further delay.

As the last hearing appears to have been taken quite some time back, accordingly, if required, the Board of Councillors of Baranagar Municipality may afford further opportunity of hearing to all the necessary parties. Final order shall be passed and communicated to the parties by July 15, 2024.

It has been submitted that the private respondents no.9, 10, 11 and 12 are senior citizens. Therefore, the municipality shall permit the legal representatives of the aforesaid respondents to remain present at the hearing.

It will be open for the parties to take help of the legal representative at the time of hearing before the Board of Councillors.

In the reasoned order to be passed by the municipality, specific indication shall be made with regard to the portions which have been found to be unauthorised. The measurement of the unauthorised portions shall be disclosed.

The municipality may conduct a site inspection for taking measurement to arrive at a proper decision in the matter.

The writ petition is disposed of accordingly.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]