

24 13.03.2024
NB/AGM Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 28419 of 2023

Misa Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Pritam Choudhury.
..for the petitioner.

Mr. Amal Kr. Sen, AGP
Mr. Lal Mohan Basu.
...for the State.

Mr. Tapash Kr. Bhattacharya,
Mr. Avirup Bhattacharya.
...for the Katwa Municipality.

Mr. Uttiya Ray,
Mr. Arnab Mandal.
...for the respondent nos.7,8&9.

The petitioner is aggrieved by the order passed by the
Katwa Municipality dated 28th November, 2023.

It has been submitted that the order of demolition has
been passed by the Chairman in his individual capacity.
According to law, the order of demolition can only be passed by
the Board of Councillors and not by the Chairman individually.

It has been submitted that no unauthorised construction
has been made by the petitioner but only tin shed with PVC
structure has been constructed over the rooftop of G+1 storied
building to control the heat of the sun.

Learned advocate representing the Municipality has
produced a photograph of the construction that has been found
to be unauthorized and thereafter directed to be demolished.

It appears therefrom that the structure has been made in such a manner that all its sides are covered. The same is reported to be used for habitation.

On a perusal of the impugned order, it appears that the members of the Board of Councillors were present at the time of hearing. The order has merely been signed by the Chairman on behalf of the Board of Councillors. The impugned order is not the order of the Chairman independently as has been portrayed before this Court.

The construction that has been made is an absolute illegal and unauthorised one. Putting a shed on top and covering all the sides of the same amounts to illegal and unauthorised construction. The same could not have been done without obtaining sanction/permission from the municipality.

In view of the above, this Court is not inclined to exercise jurisdiction in this matter.

The writ petition fails and is hereby dismissed.

The photograph produced by the learned advocate representing the Municipality be retained with the records.

Urgent certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Amrita Sinha, J.)