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03.01.2024
d.p.

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

W.P.A 28649 of 2023

**M/s. Reels Manufacturing Works & Ors.
-versus
Naihati Municipality & Ors.**

**Mr. Ayan Banerjee,
Mr. Abhishek Verma,
Mr. Ritobrata Singha Roy.
...For the Petitioners.**

**Mr. Bikash Shaw.
...For the Respondent No.5.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of the Naihati Municipality.

The order passed by the Chairman, Naihati Municipality communicated to the petitioners vide Memo No. 4000/MC-11 dated 2nd December, 2023 is impugned in the instant writ petition.

It appears therefrom that the Chairman passed the order of demolition of the illegal/unauthorized portion within seven days from the date of receipt of the same, failing which the Municipality will demolish the same.

Specific case of the petitioners is that prior to passing the order of demolition no opportunity of hearing was given and no spot inspection was conducted in terms of the direction passed by this Court on 7th August, 2023 in WPA 23453 of 2022 (Smt. Abharani Karmakar –vs- The State of West Bengal & Ors.).

It has been submitted that the impugned order is an absolute cryptic one, passed by the Chairman of the Naihati Municipality who does not have the authority to pass the order of demolition.

Prayer has been made to set aside the impugned order of demolition.

Learned advocate appearing for the private respondent submits, upon instructions that, no notice of either spot inspection or hearing was given by the Municipality prior to passing the impugned order of demolition.

According to the provisions of law, the Board of Councillors of the Municipality is the competent authority to take a decision with regard to passing order of demolition.

From the impugned order it does not appear that the Board of Councillors of the Municipality passed the same. The order appears to have been passed by the Chairman of the Municipality independently. The order is absolutely unreasoned, devoid of the basic details to arrive at a logical conclusion as to whether there has been any unauthorized construction or not.

The Board of Councillors of the Municipality ought to have passed the order of demolition only after taking steps in accordance with the direction passed by the Court on 7th August, 2023.

In view of the above, the impugned order of the Chairman, Naihati Municipality cannot be supported in law. The same is accordingly, set aside.

The Municipality is directed to take steps in terms of the order dated 7th August, 2023 at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

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.)