

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

32 10.4.2024
Sc Ct. no.2

WPA 676 OF 2024

Bharat Prasad Gupta
Vs.
Siliguri Municipal Corporation & Ors.

Mr. Arnab Sengupta
Mr. Rahul Agarwal
Mr. Janardan Periwal
Mr. Abhilash Mittal
Mr. Jai Agarwal.

....For the Petitioner

Mr. Debarshi Dhar

....For the Respondent
Nos. 1 to 3

Mr. Ajay Singhal
Mr. Rahul Yadav.

....For the Respondent
No.4

The petitioner claims that, there has been an unauthorized construction on the piece of land mentioned in **paragraph 4** of the writ petition. Referring to a representation dated **March 18, 2024, Annexure-P5 at page 29** to the writ petition Mr. Arnab Sengupta, learned counsel for the petitioner submits that, despite the fact of unauthorized construction being brought to the notice of the respondent no.3, the authority has not

taken any step what is required to be taken in accordance with law.

Mr. Debarshi Dhar, learned counsel appears for the respondent nos. 1 to 3.

Mr. Ajay Singhal, learned counsel appears for the respondent no.4, the private respondent. He submits that, this is a misconceived writ petition and liable to be dismissed with exemplary cost. He has vehemently opposed the writ petition. It is really a harrasive writ petition.

Considering the submissions made on behalf of the parties and considering the materials on record, the respondent no.3 is directed upon issuing a prior hearing notice of at least **seven days** to the petitioner and respondent no.4 shall decide the representation dated **March 18, 2024** submitted by the petitioner, **Annexure-P5 at page 29** to the writ petition after affording an opportunity of hearing to them and by passing a reasoned order in accordance with law.

While conducting the hearing to arrive at its finding, the respondent no.3 must and should take all steps strictly in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **four weeks** from

the date of communication of this order. The reasoned order then shall be communicated to the petitioner and the respondent no.4 positively within a period of **one week** from the date of the said reasoned order to be passed.

If the reasoned order goes in favour of the petitioner, then the respondent no.3 and/or any other appropriate authority/authorities of the relevant municipal corporation shall take all steps forthwith strictly in accordance with law but positively within a period of **two weeks** from the date of the said reasoned order to be passed to give effect thereto.

It is made clear that, this court has not gone into the merits of the claim of the petitioner in any manner neither the merits of the submissions made on behalf of the respondents. The petitioner and the respondent no.4 shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3.

It is made clear that, this order shall not create any right or equity in favour of the petitioner in the event the petitioner is not eligible to receive his claim in terms of his representation dated **March 18, 2024** strictly in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition, **WPA 676 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)