

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

WPA 1015 of 2024

**Soumitra Debnath
Versus
Siliguri Municipal Corporation and Ors.**

Mr. Sanjay Mazoomdar, Adv.

... for the petitioner

Mr. Debtorshi Dhar, Adv.

... for the Siliguri Municipal Corporation

Mr. Sanjay Mzoomdar, learned counsel, is appearing for the petitioner. Mr. Debtorshi Dhar, learned counsel, is appearing for the Siliguri Municipal Corporation through virtual mode.

The petitioner has filed the present application praying for direction upon the respondent no. 2 to consider his representation dated 12.02.2024 so that the petitioner can appear before the Commissioner, Siliguri Municipal Corporation with all documents.

The Commissioner, Siliguri Municipal Corporation has issued a notice dated 07.12.2023 directing the petitioner to appear before the authority within seven days from the date of receipt of the notice but in spite of receipt of the notice, the petitioner did not appear and accordingly, on 22nd January, 2024 the Commissioner, Siliguri Municipal

Corporation in pursuance of Section 287 of the West Bengal Municipal Corporation Act, 2006 had issued an order for demolition of unauthorized construction within seven days from the date of issuance of the notice. Though the order of demolition was passed but the has not been executed. In the meantime, the petitioner has made a representation on 12.02.2024. The petitioner says that the petitioner was suffering for acute ostio arthritis and was totally bed-ridden and was in continuous medical treatment due to which the petitioner was not able to appear before the Commissioner, Siliguri Municipal Corporation and he prays for allowing the petitioner to give opportunity so as to enable the petitioner to place all the documents before the concerned authority.

Counsel for the Siliguri Municipal Corporation submits that notices were issued to the petitioner but the petitioner has not even filed any request to adjourn the hearing of the matter by the Commissioner. He submits that the order was passed on 22nd January, 2024 and the execution was supposed to be made on 20th May, 2024 but non availability of sufficient police force, the order could not be executed and within a short span of time, the order will be executed.

Heard learned counsel for the respective parties.
Perused the materials on record.

This Court finds that admittedly, the petitioner has received the notice but the petitioner could not appear. Now, the petitioner has taken the ground of his illness.

This Court also finds that the authority has passed an order of demolition on 22nd January, 2024 but till date the order has not been implemented/executed.

Considering the above, this Court is of the view that one opportunity should be given to the petitioner before execution of the order dated 22nd January, 2024.

Accordingly, the Commissioner, Siliguri Municipal Corporation is directed to give an opportunity of hearing to the petitioner for hearing by issuing fresh notice and if the petitioner satisfies the Commissioner, Siliguri Municipal Corporation by submitting the documents, the Commissioner shall be at liberty to revive the order dated 22nd January, 2024 and if the petitioner cannot satisfy the Commissioner with the documents, the Commissioner shall be at liberty to execute the order dated 22nd January, 2024.

The Commissioner is directed to complete the process of hearing of the petitioner within two weeks from the date of receipt of this order.

In terms of the above observation, WPA No. 1015
of 2024 is disposed of.

(Krishna Rao, J.)