

12.08.2024
Sl.13.
Ct. No.2
Suman

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

WPA 1488 of 2024

**Sri Prasenjit Sutradhar
-Versus-
The State of West Bengal and Ors.**

Mr. Subhasish Ghosh
..for the petitioner

Mr. Subir Kumar Saha
Mr. Nabankur Paul
..for the State

Mr. Kunaljit Bhattacharya
Mr. Haider Ali
Mr. Satyam Sarkar
..for respondent no.4.

Mr. Deborshi Dhar
..for Siliguri Municipal Corporation

At the instance of respondent no.4, WPA 2438 of 2023 (*Smt. Lili Sarkar-Vs.- The Siliguri Municipal Corporation*) was filed before this Court alleging unauthorized construction on the western side of R.S. plot no.337 of Mouza Dabgram, P.S. Bhaktinagar (old) now NJP, District- Jalpaiguri.

Respondent no.4 alleged that her brothers had entered into a development agreement with the petitioner in this case and a G+3 building was raised in deviation from the sanctioned plan obtained from the Siliguri Municipal Corporation.

A Co-ordinate Bench of this Court on November 16, 2023, directed, inter alia, to pass a reasoned order by the Siliguri Municipal Corporation and to demolish the unauthorized construction, if any.

In compliance of the said order, the Siliguri Municipal Corporation passed a reasoned order on July 23, 2024.

The said order dated July 23, 2024, has been challenged by the petitioner, who is the promoter of the said building.

From the order dated July 23, 2024, passed by the Siliguri Municipal Corporation, it appears that the Corporation identified certain unauthorized constructions at the said premises and directed the petitioner to demolish them as per provisions laid down under Sub-rule 1 of Rule 11 of the West Bengal Municipal Building Rules, 2007 read with Section 266 of the West Bengal Municipal Act, 2006.

Learned advocate appearing for the petitioner has drawn attention of this Court to a Circular dated December 4, 2023 issued by the Urban Development and Municipal Affairs Department, Government of West Bengal. He submits that the total deviation as found by the Corporation amounts only to six percent from the sanctioned plan. Therefore, the relevant unauthorized construction should be regularised in terms of the Circular dated December 4, 2023, whereby the State

has allowed regularization of up to ten percent deviation from the sanctioned plan subject to payment of fees.

A bare perusal of the impugned order dated July 23, 2024 does not indicate that the aforesaid Circular dated December 4, 2023 was taken into consideration by the Corporation.

In the aforesaid facts, I set aside the order dated July 23, 2024, passed by the Siliguri Municipal Corporation and direct the Corporation to hear the matter afresh in the light of the Circular dated December 4, 2023, issued by the Urban Development and Municipal Affairs Department, Government of West Bengal.

In reconsidering the matter, the Corporation shall hear the petitioner.

The entire exercise shall be completed within a period of one month from the date of communication of this order. A reasoned order should be communicated to the petitioner within a period of one month thereafter.

Accordingly, **WPA 1488 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)