

30.09.2024
Court No. 2
Sl. No.51
KB

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

W.P.A. 2160 of 2024

**Anup Kumar Pal & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Sanjay Mukherjee.
Mr. Deborshi Dhar.
...For the Petitioners.**

**Mr. Nabankur Paul.
Ms. Rima Sarkar.
...For State.**

1. The petitioners are aggrieved by the notice issued by the Secretary, Siliguri Regulated Market Committee on 15th May, 2024 directing suspension of construction work at the site on the ground of irregularities being noticed. Similar notice has been noticed on 8th July, 2024.

2. In none of the notices, the irregularities in construction have been mentioned.

3. It appears that the petitioners, through their learned advocate, filed representation before the authority with a request to disclose the irregularities noticed by the authority.

4. None of the representations has been answered.

5. Learned advocate representing the State authorities seeks time to take instruction in the matter.

6. On a perusal of the impugned notices dated 15th May, 2024 and 8th July, 2024, it appears that both the communications are silent with regard to the alleged irregularities at the time of making construction as noticed by the authority. Till the details of the unauthorized constructions are made known to the person responsible for making construction, it will not be possible for the said person to remove the irregularities.

7. Learned advocate representing the petitioner contends that the construction is being made in accordance with the plan sanctioned by the Siliguri Regulated Market Committee.

8. The petitioner relies upon a report of physical spot inspection conducted by the engineers of the said Committee in May 2024 in the presence of the Secretary of the Committee which mentions that the construction is going on in accordance with the approved plan and there is no deviation noted in the construction.

9. The act of the Siliguri Regulated Market Committee in directing suspension of construction work without disclosing the irregularities is in violation of the principles of natural justice. Such communications cannot be accepted in law.

10. In view of the above, the impugned communications are set aside.

11. The Siliguri Regulated Market Committee is directed to cause spot inspection upon prior notice to the petitioners at the earliest but positively by 8th October, 2024 to ascertain whether the construction is being made in accordance with the approved plan or not.

12. The spot inspection report shall be forwarded to the petitioners and an opportunity of hearing shall be granted.

13. If it appears that there is any unauthorized construction, then necessary steps, in accordance with law, shall be taken to deal with the same.

14. If prima facie, no unauthorized construction is detected, then the authority shall permit the petitioner to resume the construction work.

15. Till the authority arrives at a conclusive finding with regard to the unauthorized construction, no coercive step shall be taken against the petitioners.

16. The writ petition stands disposed of.

17. Affidavit-of-service filed in Court today be kept with the records.

18. The report of inspection signed by the Sub Assistant Engineer, Assistant Engineer and Secretary of the Siliguri Regulated Market Committee dated 16th May, 2024 be retained with the records.

19. Urgent certified photocopy of this order, if applied for, be supplied to the parties upon compliance of usual legal formalities.

(Amrita Sinha, J.)