

WPO No.18 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. SHAHID IQBAL
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:16th January, 2024.

Appearance:
Mr. Parth Sarathi Deb Burman Adv.
Mr. Amit Gupta, Adv.
Ms. Amrita Chowdhury, Adv.
....for the Petitioner.

Mr. Gurudas Mitra, Adv.
Mr. Swapan Kr. Debnath, Adv.
... for K.M.C.

The Court:-The matter relates to certain construction at premises no.51, Hare Krishna Konar Road, Ward No. 60, Borough-VI of the Kolkata Municipal Corporation.

A notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued to the petitioner addressing him as the person responsible for making construction on 24.11.2023. The petitioner submits that consequent to the notice under Section 401, the petitioner has stopped the construction work.

The petitioner complains that till date no action has been taken by the Corporation. The petitioner prays that the Corporation ought to take further steps in the matter in accordance with the Office Circular No.16/2021-22 dated 02.03.2022.

Learned advocate representing the Corporation submits that the present writ petition is premature. The petitioner cannot insist upon the Corporation to take further steps in the matter. It has been submitted that the Corporation shall take steps in the matter in accordance with law.

The Court is of the opinion that as the Corporation has already detected unauthorized construction and issued notice under Section 401 of the Act directing the person responsible to stop the construction work, accordingly, it will be open for the Corporation to take steps in the matter in accordance with law to deal with such unauthorized construction.

Whether the Corporation will invoke the provision of Section 400(1) or Section 400(8) of the Act depends upon the facts and circumstances of the case. It is neither for the writ petitioner to seek for any direction nor for the Court to decide which provision of law would the Corporation invoke to deal with the unauthorized construction.

At this stage, prayer sought for by the petitioner to act in accordance with the Office Circular No.16 cannot be allowed.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)