

21.04.2025
Sl. No. 12
Ct No. 3
SG

WPA 3358 of 2025

**Md. Faizaan Ahmed
Vs.
State of West Bengal & Ors.**

Mr. Partha Pratim Roy,
Mr. Anirban Das,
Mr. Samrat Chakraborty.
...for the petitioner

Mr. Alak Kr. Ghosh,
Mr. Arijit Dey.
...for KMC

Mr. Gaurav Das,
Ms. Sanchayita De.
...for the State

1. An inadvertent typographical error had crept into the order dated 20.03.2025.
2. In the order dated 20.03.2025 the names of Mr. Gaurav Das and Ms. Sanchayita De are appearing on behalf of the petitioner though their names should appear on behalf of the State.
3. Order dated 20.03.2025 stands modified to this extent.
4. Affidavit-of-service filed in court today is taken on record.
5. Joint inspection report is kept on record.
6. The petitioner has preferred the present writ petition praying for appropriate directions to restore the water body of the private respondent nos. 7 and 8

in premises no. B/31/H/2/2/1, Gobra Gorosthan Road, P.S. Topsia, Kolkata - 700046.

7. It is the case of the petitioner that the said plot is of 15 Cottahs of area and also recorded as Tank with the said Municipal Corporation. The petitioner further contended that the Private Respondent Nos. 7 and 8 being the owners in respect of the said premises has converted major portion of the said water body into solid land and the water body is now only with 3 Cottahs of land. The petitioner had made several representations to the concerned authority inter alia praying for the restoration of the water body and also for taking necessary steps against such illegal filling up of the water body by the Private Respondents being the owners of the said land. Despite several representations no substantive action has been taken by the respondent authorities till date.

8. Learned Counsel for the respondent-Kolkata Municipal Corporation submits that the municipality as well as the State Police Authority has conducted a joint inspection 12.02.2025. In the report they have stated that no act of illegal filling up of the pond was found on the said premises.

9. Learned Counsel for the petitioner has drawn the attention of this Court to Municipal Commissioner's Circular No. 57 of 2023-2024 dated

27.03.2024. The said circular explicitly provides that in cases of illegal filling of the water bodies–

- i) Any complaint regarding illegal filling of water body to be forwarded to the respective Borough Executive Engineer and the same shall be attended immediately and necessary actions to be taken within 24 hours.
- ii) Borough Executive Engineer will take necessary action to make notice and also lodge F.I.R to the local Police Station as per complaint received by different modes of communications. A copy of action taken report to be communicated to E & H Department and to concern Building Department Water Supply Department also.
- iii) Immediate action under section 496 of K.M.C Act, 1980 will be initiated by E & H Department with the help of Borough, Health and SWM Department to protect environment and counter vector borne disease.
- iv) If any private owned water body is found to be kept in ill-maintained condition the respective Borough Executive Engineer (Civil) of Engineering Department will issue notice to the owner of the water body of paste the notice at site, directing the owner to maintain the water body as per West Bengal Land Fisheries Act,

1984 and subsequent amendments and inform E & H Department for taking management control (if required) as per prevailing provisions of law.

10. Mr. Ghosh who appears for the respondent-Kolkata Municipal Corporation assures that the pond shall be restored to its original position and that no illegal or unauthorised filling up of the pond shall be undertaken by respondent nos. 7 and 8.

11. In view of the said statement made by the respondent-Kolkata Municipal Corporation the petitioner states that he shall be satisfied if the pond is restored to its original condition and that no illegal and unauthorized filling of the pond is undertaken by the private respondents.

12. Accordingly, this Court directs that the respondent-Kolkata Municipal Corporation shall be bound by the statement made before this Court and shall not allow any illegal and unauthorized filling of the pond. The Corporation is further directed to take all necessary steps to restore the said pond to its original and natural state.

13. With the above directions, the present writ petition is disposed of.

14. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

15. There shall be no order as to costs.

16. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)