

Court No. 2
13.02.2025
(Item No. 14)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 3448 of 2025

Bijay Biswakarma
VS
The State of West Bengal & Ors.

Mr. Anindya Lahiri
Mr. Dyutiman Banerjee
Mr. Asish Chakraborty
.... For the petitioner
Mr. Anand Farmania
Ms. Indumouli Banerjee
.... For the State
Mr. Biswajit Mukherjee
Ms. Manisha Nath
.... For KMC

Upon urgency being pleaded since the regular determination has been assigned to this Court, this writ petition has been taken up for consideration.

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Anindya Lahiri, learned senior counsel appears for the petitioner.

Mr. Biswajit Mukherjee, learned advocate with Ms. Manisha Nath, learned advocate appear for respondent Nos. 2 to 6.

Mr. Anand Formania, learned advocate with Ms. Indumouli Banerjee, learned advocate appear for respondent No. 1, State.

The issue in this writ petition is an alleged unauthorized construction and the steps taken by

Kolkata Municipal Corporation against that which has already received attention of the Hon'ble Supreme Court in **Civil Appeal No. 11111 of 2024** arising out of **S.L.P. (Civil) No. 17797 of 2024**. Order was passed by the Hon'ble Supreme Court dated **October 14, 2024, annexure P-2** at **pages 73 and 74** to the writ petition. The appeal was subsequently disposed of on the same day by the Hon'ble Supreme Court at **page 75** to the writ petition.

Following the observation of the Hon'ble Supreme Court the petitioner submitted its application for regularization before the Kolkata Municipal Corporation dated **November 8, 2024, annexure P-3** at **page 76** to the writ petition.

Pending the said regularization application, referring to **annexure P-4** at **page 83** to the writ petition Mr. Anindya Lahiri, learned senior counsel appearing for the petitioner submits that on **February 6, 2025** Kolkata Municipal Corporation has issued a show cause notice which speaks for itself.

Mr. Lahiri, learned senior counsel submits that there was a specific direction of the Hon'ble Supreme Court that if the application for regularization is submitted by the petitioner the same is required to be considered first, therefore, the show cause notice is totally bad in law and in violation of the direction of the Hon'ble Supreme Court. Learned counsel further

places an order of the Hon'ble Supreme Court dated **August 6, 2024**.

Mr. Biswajit Mukherjee, learned counsel appearing for Molkata Municipal Corporation referring at **page 84** to the writ petition which is appended to **page 83** being the show cause notice dated **February 6, 2025** submits that the petitioner was informed as to the detail of the violation of building rule in violation where of the construction has been made. He submits that, the show cause notice was issued to enable the petitioner to make their submissions at the time of consideration of the said application for regularization dated **November 8, 2024**.

After considering the rival contentions of the parties and upon reading the observations of the Hon'ble Supreme Court mentioned in the order as referred to above this Court finds no order can be passed in this writ petition by entertaining the prayers of the petitioner made therein, save and except the clarification that this Court has not gone into the merits of this writ petition.

With the above observations and directions, this writ petition, **WPA 3448 of 2025** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)