

27.03.2025
Item No.23
Ct. No.26
CHC
(disposed of)

FMA 420 of 2025
IA NO: CAN/1/2025

Sri Debabrata De
Vs.
The State of West Bengal & Ors.

Mr. Abhilash Chatterjee, Advocate
...for the appellant

Mr. Bhaskar Prasad Vaisya, Ld. A.G.P.
Mr. Ranjan Saha, Advocate
...for the State

Mr. Sandipan Banerjee, Advocate
Mr. Ankit Sureka, Advocate
...for the Howrah Municipal Corporation

Mr. Asis Bhattacharyya, Advocate
Mr. Biswajit Mitra, Advocate
...for the respondent nos.7 to 10

1. Affidavit-of-service filed in Court be taken on record.
2. Appeal is at the behest of the private respondent and directed against the order dated February 6, 2025 passed in WPA 697 of 2025.
3. Learned advocate appearing for the appellant subsists that, there exists at least two orders of demolition. Out of those two orders for demolition, one was assailed before High Court. Learned Single Judge directed implementation of such order of demolition. Thereafter, the private respondent filed the writ

petition in which the impugned order was passed. He submits that, the issue of regularization cannot be reopened in view of the earlier order passed by the learned Single Judge in the earlier round of litigation as also the fact that nature and quality of deviation are such that, it cannot be regularized.

4. State, Howrah Municipal Corporation and the private respondents are represented.
5. By the impugned order, learned Single Judge, after taking note of the fact that, there is a prayer for regularization made by the private respondent before the Howrah Municipal Corporation which was under consideration, held that, the application for regularization should be first considered and thereafter, the orders of demolition be implemented if required.
6. We find that, amendment to Section 177 of the Howrah Municipal Corporation Act, 1980 was introduced on September 20, 2017. By such amendment, proviso to sub-section (1) of Section 177 were introduced. Such proviso permits consideration of minor deviation upon payment of prescribed fees. Court is informed that, fees are yet to be prescribed. Be that as it may, there is a substantive provision in the statute which permits consideration of regularization of minor deviation.

7. There is an application made by the private respondent pending before the Howrah Municipal Corporation for regularization.
8. As to whether, the entirety of the regularization as prayed for by the private respondent will be accepted by the Howrah Municipal Corporation is required to be decided by the Howrah Municipal Corporation.
9. In such conspectus, learned Single Judge directed the orders of demolition not to be enforced since the prayer for regularization was yet to be disposed of by the Howrah Municipal Corporation.
10. We, therefore, direct the Howrah Municipal Corporation to dispose of the application for regularization as expeditiously as possible and preferably within four weeks from date after affording reasonable opportunity of hearing to the private parties before us.
11. Howrah Municipal Corporation is at liberty to hear such other parties and consult such documents as it deems appropriate for the purpose of disposal of application of regularization. It will pass a reasoned order which it will communicate to the parties it heard forthwith thereafter.
12. Depending upon the result of the regularization application, Howrah Municipal Corporation will take appropriate steps with regard to the subsisting order of demolition.

13. **FMA 420 of 2025** along with connected application are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)