

12.06.2025
SI No.9
Court No.8
(gc)

WPA (P) 95 of 2021

**Ankur Sharma
Vs.
The State of West Bengal & Ors.**

Mr. Sandipan Das,
Mr. R. Shaw

...for the Petitioner.

Mr. Anirban Ray, Ld. G.P.,
Mr. Nilotpal Chatterjee, J.G.A.

...for the State.

Mr. Abhrajit Mitra, Sr. Adv.,
Ms. Rajshree Kajaria,
Mr. Satadeep Bhattacharyya,
Mr. Uttam Sharma

...for the Respondent Nos.8 & 9.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka

...for the H.M.C.

1. Exception on behalf of the petitioner to the report of Mr. Alok Kumar Mazumder, the expert appointed by the Hon'ble Division Bench presided over by the then Chief Justice Prakash Shrivastava on 19th July, 2022 is taken on record.
2. It appears that after extensive hearing in order to ascertain the veracity of the allegations made by the writ petitioner, Mr. Alok Kumar Mazumder (B.Tech. (Civil) in Engineering, IIT Kanpur) was appointed from the panel of engineers of this Court for the purpose of carrying out spot inspection and measurement of the road in presence of the representative of the writ petitioner as also the

private respondents. The said direction appears to have been passed in view of the unsatisfactory explanation offered by the municipal authority with regard to spot inspection. The municipality failed to produce the report in support of the details sought for by the Hon'ble Division Bench.

3. Mr. Mazumder filed a report on 15th November, 2022 as recorded in the order on that date. Mr. Mazumder in his report has stated that after measurement of all the points, analyzing all the site documents including the provisions of laws as mentioned in the report he has found that the average road land width of the premises No.40, Swarnamoyee Road, Howrah is 9.671 meter. The Pen drive contained in a sealed envelope relating to site inspection was also placed and the same was taken on record.
4. On 14th February, 2023 the parties were not represented. On 15th May, 2025, the petitioner prayed for an adjournment. The petitioner filed an affidavit taking exception to the report filed by the expert affirmed on 11th June, 2025. However, what was most disturbing in the said exception is that the petitioner has shown the audacity to bypass this Court by lodging the FIR and complaint

with the Inspector-in-charge, A.J.C. Bose Botanic Garden Police Station and Shibpur Police Station when this Court is in seisin over the matter and the expert is appointed by this Court. This act itself is contumacious for which we could have drawn and initiated proceeding against the petitioner. However, considering the age, we caution him that in future he should be more careful otherwise appropriate steps will be taken against the petitioner for such contumacious conduct.

5. We have read the affidavit taking exception to the report. The petitioner has made allegation about the measurement in point no.39 which, however, is not proved from the report and the photograph disclosed in the proceeding. Annexure P-1 in the exception affidavit appears to have been a photograph taken by him during inspection which does not corroborate with the report of the Special Officer with regard to the inspection being carried out in respect of point no.39. He has referred to few of the measurements taken by one Senior Surveyor, one licensed Civil Engineer and also referred to Mouza Map to contend that the average road width could not have been more than 8.2 meters which is contrary to the finding of the Court appointed

expert. He appears to have made certain insinuations with regard to the appointment of the expert as he claimed to have handed over a slip at the time of hearing on 18th July, 2022 suggesting an expert to be appointed from the Indian Institute of Engineering Science and Technology, Shibpur, Howrah. The petitioner cannot have any say with regard to the appointment of an expert and the person appointed is highly qualified and is an empanelled engineer and architect of this Court. He has vast experience in the matter. It appears that the expert has carried out his duty diligently and the report is detailed with supporting documents. The expert has also referred to the relevant provisions of the Howrah Municipal Corporation Act, 1980 and the Kolkata Municipal Corporation Building Rules, 2009 in arriving at his conclusion. The expert in the report has referred to Rule 2 sub-Rule (59) of the Kolkata Municipal Corporation Building Rules, 2009 and Section 2 sub-section (25) of the Howrah Municipal Corporation Act, 1980 with regard to finding out the meaning of width of the “Public Street” and the definition of “Public Street” under the respective statutes. The expert has also taken note of the provisions of Rule 74 sub-Rule (3)

of the Kolkata Municipal Corporation Building Rules, 2009 in arriving at his conclusion.

6. In view thereof, we do not find any reason to pass any further direction.
7. The writ petition stands dismissed.
8. The respondents shall not act on the complaint and FIR lodged by the writ petitioner. The said complaint and FIR are quashed.
9. However, there shall be no order as to costs.
10. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Smita Das De, J.)