

19.03.2025
Sl. No.1
akd

W. P. A. 6607 of 2020
C. A. N. 1 of 2020 (Old No. CAN 5425 of 2020)

[Chandana Mallik (Mandal) -Vs- The Kolkata Municipal Corporation &Ors.]

Mr. Indranath Mitra
Mr. Pingal Bhattacharyya
Ms. Soumita Ghosh
Mr. Rajdeep Sinha

... .. for the petitioner

Mr. Arindam Banerjee ..Sr. Advocate
Ms. Anamika Bari

... for respondent nos.8 & 9

Mr. Alok Kumar Ghosh
Mr. Subhrangsu Panda

... .. for the KMC

1. Petitioner has filed the present writ petition seeking quashing of the sanctioned building plan bearing No.2012050018 dated 16.10.2012 issued by the Kolkata Municipal Corporation, on the ground of alleged contravention of the Kolkata Municipal Corporation Building Rules, 2009.
2. Learned Advocate for the petitioner submits that the sanctioned building plan suffers from gross irregularities and violates several provisions of the Kolkata Municipal Corporation Building Rules, 2009 (*hereinafter referred to as the 'Rules of 2009'*), namely rules 2(17), 2(27), 2(32) and more significantly Rule 74. It has been contended that the width of the road adjacent to the subject property, as reflected in the sanctioned plan, measuring only 2.696 Meters. Consequently, in terms of the applicable statutory provisions, the permissible height of the building could not have exceeded 7 meters. However, the corporation in complete disregard of the statutory limitations, sanctioned a building height of 12.5 meters, thereby acting arbitrarily and in complete derogation of the binding rules. The

petitioner further submits that she had duly approached the commissioner of the Kolkata Municipal Corporation through a written complaint dated 16.09.2019, highlighting the aforementioned illegalities and seeking appropriate remedial action. But the said representation has neither been acted upon nor any reasoned decision communicated to the petitioner till date.

3. This Court is of the prima facie view that there are certain illegalities in the sanctioned building plan. The question of compliance with the statutory building rules is inherently a technical issue, it needs to be looked into by the Commissioner, Kolkata Municipal Corporation.

4. Accordingly, the Court deems it fit and proper to direct the commissioner, Kolkata Municipal Corporation to examine the grievances of the petitioner in their entirety and shall pass a speaking order within a period of four weeks from today after affording an opportunity of personal hearing to all interested parties. All issues are left open for the commissioner to decide.

5. With the aforesaid directions, the writ petition is disposed of.

6. In view of disposal of the writ petition, connected application being CAN 1 of 2020 (*Old No. CAN 5425 of 2020*) is also disposed of.

7. There shall be no order as to costs.

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

(Gaurang Kanth, J.)