

20.05.2025
Sl. Nos.28 & 222
akd

W. P. A. 7973 of 2025

[Manas Sengupta & Anr. -Vs- The Howrah Municipal Corporation & Ors.]

W I T H

W. P. A. 10642 of 2025

[Manas Kumar Sengupta & Anr. -Vs- The Howrah Municipal Corporation & Ors.]

Mr. Ayan Banerjee
Mr. Suman Sengupta
Mr. Ajeyo Chowdhury
... .. for the petitioners

Mr. Sandipan Banerjee
Mr. Ankit Sureka
... .. for the HMC

Ms. Shebatee Datta
Ms. Poulami Roy
... .. for respondent no.5

1. Both the writ petitions are taken up together for hearing.
2. The petitioners, in the present writ petitions, challenge the demolition notices dated 25.03.2025 and 09.04.2025, issued by the Assistant Engineer, Building Department, Howrah Municipal Corporation (respondent no. 3), on the grounds of alleged unauthorized and illegal construction at premises no. 87/A, Mohiary Road, Jagacha, GIP Colony, Ward No. 47, Howrah.
3. The petitioners contend that, while there may be certain deviations from the sanctioned building plan, the nature of the alleged unauthorized construction is such that it is capable of being regularized. In support of this contention, the petitioners submitted an application for regularization before the respondent-Howrah Municipal Corporation on 23.04.2025.

4. Mr. Ayan Banerjee, learned Advocate appearing on behalf of the petitioners, submits that the deviations referred to in the demolition notice are regularizable. He relies upon a judgment dated 17.05.2025, delivered by a Division Bench of this Hon'ble Court in MAT 860 of 2023, which lays down the procedure for handling applications for regularization of unauthorized constructions. In the said judgment, the Court held that upon receiving such an application, the Commissioner of the municipal authority is required to consider and dispose of the same after granting the applicant an opportunity of hearing. It was further observed that the power to decide such an application must be exercised personally by the Commissioner and cannot be delegated to any subordinate officer. The entire process is to be concluded within a fortnight from the date the order is communicated to the Commissioner by either party. Pending such consideration, no coercive action is to be taken against the petitioner's property.

5. In view of the aforesaid judgment, the learned Advocate for the petitioners prays for similar relief in the present matter.

6. The learned Advocate for private respondent no. 5 opposes the prayer, submitting that the petitioners have undertaken construction far in excess of what may be considered for regularization. It is further submitted that the unauthorized construction is substantial, allegedly amounting to approximately 800 sq. ft., and not of a minor nature.

7. Since the petitioners' application for regularization is presently pending before the Howrah Municipal Corporation, this Court directs the Commissioner, Howrah Municipal Corporation,

to decide the said application within a fortnight from the date of communication of this order by either party.

8. This Court refrains from expressing any opinion on the merits of whether the construction in question is capable of being regularized or not. The Commissioner, Howrah Municipal Corporation, is directed to take an independent decision strictly in accordance with law, after affording an opportunity of hearing to the petitioners as well as all other concerned parties or their duly authorized representatives.

9. It is further directed that, until a decision is taken by the Commissioner in terms of this order, no coercive action shall be taken by the respondent-Howrah Municipal Corporation in respect of the impugned demolition notice dated 25.03.2025.

10. In light of the above directions and observations, both writ petitions stand disposed of.

11. Since no affidavits have been filed by the respondents, the allegations made in the writ petitions shall not be treated as having been admitted.

12. There shall be no order as to costs.

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

(Gaurang Kanth, J.)