

16.05.2025
Sl. No.19
Ct.3/ tkm

W.P.A. 10801 of 2025

M/s. Singh Enterprise
Vs.
State of West Bengal & Ors.

Mr. Sanjib Seth
... .. for the petitioner

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

1. The present writ petition has been preferred by the petitioner challenging the legality, validity and propriety of the self-demolition notice dated 27.02.2025 issued by the respondent no. 5, whereby the petitioner has been directed to demolish the construction alleged to have been raised in deviation of the sanctioned building plan at Holding No. 21/1/1A, Kalu Para Lane, Ward No. 4, within the jurisdiction of the Howrah Municipal Corporation.
2. The factual matrix as placed by the petitioner reveals that the subject premises is situated on land owned by two individuals, namely, Mr. Gouri Sankar Hazra and Mr. Chandra Sekhar Hazra. A Development Agreement dated 27.04.2022 was executed between the petitioner and the said landowners, whereby the petitioner was granted authority to develop the said land in accordance with the terms and conditions mutually agreed upon.

3. Pursuant to the execution of the said Development Agreement, the petitioner submitted an application for sanction of a building plan before the respondent Corporation. It is stated that upon due consideration, the building plan was sanctioned by the competent authority of the respondent Corporation, thereby permitting the petitioner to undertake construction in accordance with the approved plan.
4. Relying upon the said sanctioned plan, the petitioner commenced construction work and claims to have invested substantial financial resources in the development of the property. However, subsequently, the landowners informed the petitioner that they had received a self demolition notice dated 27.02.2025 issued by the respondent no. 5, wherein it was alleged that unauthorized construction had been carried out at the site and a direction was issued to demolish the same failing which coercive demolition proceedings would be initiated by the municipal authority.
5. Aggrieved thereby, the petitioner has approached this Court contending, inter alia, that the impugned self-demolition notice has been issued in complete violation of the principles of natural justice, inasmuch as no opportunity of hearing was granted to the petitioner prior to issuance of the said notice. It is also submitted that the construction undertaken by the

petitioner is strictly in conformity with the sanctioned building plan and any allegation to the contrary is wholly unfounded and arbitrary.

6. The Court has heard the learned advocates for the respective parties and perused the records made available for its consideration.
7. From the perusal of the impugned self-demolition notice dated 27.02.2025, it appears that the respondent Corporation has alleged that the petitioner has raised construction beyond the sanctioned building plan to the extent of 410.79 square metres, thereby rendering the construction unauthorized.
8. However, this Court finds that there is no material on record to indicate that the petitioner was afforded an opportunity of hearing prior to the issuance of the said notice.
9. The right to be heard is not a mere formality but a substantive safeguard to ensure fairness in administrative action. In the absence of such an opportunity, any adverse action, including an order for demolition, is liable to be struck down for being arbitrary and in violation of Article 14 of the Constitution of India.
10. In the considered opinion of this Court, the impugned notice dated 27.02.2005 having been issued without following the procedure prescribed in law and without affording the petitioner an opportunity of hearing,

cannot be sustained in the eyes of law and is liable to be set aside.

11. Accordingly, the respondent Corporation is directed to undertake a joint inspection of the subject premises within a period of two weeks from the date of communication of this order. The said inspection shall be conducted in the presence of the petitioner.
12. Upon completion of such inspection, the respondent authority shall issue a show-cause notice to the petitioner clearly setting out the alleged deviations or unauthorized construction, if any. Thereafter, the petitioner shall be afforded an opportunity to submit a detailed reply and to be heard in person or through counsel.
13. The respondent Corporation shall thereafter pass a reasoned and speaking order, dealing with the contentions of the petitioner and recording specific findings on the issue of deviation or compliance with the sanctioned plan. Such an order shall be passed within a period of four weeks from the date of hearing.
14. Till such time the final order is passed by the respondent Corporation in accordance with law, the operation and effect of the impugned self-demolition notice dated 27.02.2025 shall remain kept in abeyance.
15. It is made clear that the petitioner shall not undertake any further construction at the site in question,

except in strict accordance with the sanctioned building plan and subject to final determination by the municipal authority.

16. With the aforesaid directions, the writ petition stands disposed of.

17. Since no affidavit-in-opposition has been called for, the allegations made in the writ petition shall be deemed to have been denied by the respondents.

(Gaurang Kanth, J.)