

16.06.2025
Sl. No.37
Ct. No.15
S.A.

WPA 12318 of 2025

Dinanath Singh

-vs-

The State of West Bengal & Ors.

Mr. Srijib Chakraborty
Mr. Subhajit Mukherjee
Mr. Swakshar Kumar Mondal
... for the petitioner
Mr. Swapan Banerjee
Mr. Diptendu Narayan Banerjee
Mr. Soumen Chatterjee
...for the State
Mr. Sounak Bhattacharya
... for respondent nos.3 to 9
Mr. A. K. Upadhyay
Ms. Homaira Akhter
... for respondent no.12

Mr. Srijib Chakraborty, learned advocate appearing for the petitioner, challenges the impugned demolition order appearing at page 29 of the writ petition on the ground that the Superintending Engineer of the Asansol Municipal Corporation lacks the jurisdiction to issue such an order under the West Bengal Municipal Corporation Act, 2006.

By placing reliance on Section 266 of the said Act, Mr. Chakraborty submits that the power to issue a demolition order is vested solely in the Commissioner and cannot be delegated to any other officer of the Corporation. Therefore, it is contended that the Commissioner must personally exercise such power.

In response, Mr. Sounak Bhattacharya, learned advocate appearing on behalf of the Asansol Municipal Corporation, has produced a notification dated February 9, 2024, and argues that the Superintending Engineer is empowered to issue demolition orders pursuant to the authority conferred by a notification issued under Section 47(3)(b) of the West Bengal Municipal Corporation Act, 2006.

Having regard to the order I propose to pass in the present writ petition, I do not find it necessary to adjudicate upon the issue of jurisdiction of the Superintending Engineer in this instance.

It appears from the records that a complaint was lodged by respondent no. 12 on January 15, 2024, alleging that the petitioner, his neighbour, had unlawfully constructed a building on a plot owned by respondent no. 12. Acting on this complaint, the Corporation initiated proceedings.

A joint inspection was initially conducted on August 23, 2024, in the presence of both parties. However, the petitioner disputed that any such inspection had taken place. In order to avoid any controversy, the Corporation scheduled a fresh joint inspection for December 18, 2024, to assess

the extent of the alleged unauthorized construction. A corresponding notice was issued on December 16, 2024.

On December 18, 2024, the joint inspection was duly conducted by the Surveyor and Sub-Assistant Engineer of the Asansol Municipal Corporation, and a report was submitted thereafter. The report indicated that the petitioner had illegally erected a boundary wall encroaching upon the property of respondent no. 12, thereby obstructing the ingress and egress of the said respondent. The report further noted that the petitioner had constructed a structure comprising ground and first floors, measuring a total of 2,681 sq. ft., without obtaining a sanctioned building plan.

In view of the foregoing facts and in the interest of justice, I set aside the demolition order dated May 22, 2025, issued by the Superintending Engineer of the Asansol Municipal Corporation. I direct the Commissioner of the Asansol Municipal Corporation to provide the petitioner with a fresh opportunity of hearing, by fixing a date for such hearing within one month from the date of this order. Upon hearing the petitioner and respondent no. 12, the

Commissioner shall adjudicate the matter afresh and pass an appropriate order in accordance with law.

The Corporation is further directed to furnish the petitioner with a copy of the inspection report dated December 18, 2024, within ten days from the date of this order.

It is clarified that both the petitioner and respondent no. 12 shall be at liberty to raise all relevant issues during the hearing.

Accordingly, **WPA 12318 of 2025** is disposed of.

Urgent certified website copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)