

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**HEARD ON: 29.07.2025
DELIVERED ON: 29.07.2025**

**PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH**

WPA 16912 of 2025

MD. SHARIF GHOSHI & ORS.

VERSUS

THE STATE OF WEST BENGAL & ORS.

Appearance:-

**Mr. Tarique Quasimuddin, Adv.
Mrs. Zainab Tahur, Adv.
Mr. Shiladitya Barma, Adv.
Mr. Pratik Samajpati, Adv.
Ms. Atika Sumran Ahmed, Adv.
Ms. Priyanka Ghosh, Adv.
Mr. Shurann Dasgupta, Adv.**

... ... for the petitioners

**Mr. Sauradeep Dutta, Adv.
Mr. Riju Bhowmick, Adv.
Ms. Mina Biswas, Adv.
Mr. Himadree Ghosh, Adv.**

**... ... for respondent nos.8 & 9
[Dankuni Municipality]**

**Mr. Amal Kumar Sen, Id. A.G.P.
Ms. Debdooti Dutta, Adv.
Ms. Joyeta Sinha, Adv.
Ms. Parna Roy Choudhury, Adv.**

... ... for the State

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioners have filed the present writ petition seeking a writ of mandamus directing the respondent nos. 8 and 9 to stay the proposed demolition of the *pucca*

structures erected on their land, as well as the land of other *khatal* owners. The impugned action is being carried out pursuant to the demolition order dated 02.07.2024. Although the petitioners have not, at this stage, directly challenged the said demolition order, they are nonetheless aggrieved by the same. The order, issued by respondent nos. 8 and 9, declares the cattle sheds (*khatal*s) operated by the petitioners to be illegal and, directed for the dismantling of the structures associated with these illegal *khatal*s to be demolished. The Petitioners, who claim to be the lawful owners and operators of the said *khatal*s, were instructed to cease operation of the business associated with their *khatal*s and remove the structures of these illegal *khatal*s within ten days, failing which the Dankuni Municipality will initiate demolition action.

2. The Petitioners are members of the Manoharpur Milk Project Association and have been operating the said sheds from Dankuni Municipal area for over three decades. An Original Application No. 112/2022 was filed before the National Green Tribunal, Eastern Zone Bench, Kolkata, alleging that the DVC canal also known as '*Dankuni Canal*' in the Hooghly district of West Bengal, which is directly connected to the river *Ganges*, had been completely obstructed, due to the regular discharge of cow dung from numerous cattle sheds in the vicinity. The discharge has severely damaged/degraded the canal, rendering it dry and incapable of sustaining water flow.

3. By order dated 31.03.2023, the National Green Tribunal disposed of the said application with a series of directions, including a direction to the State Administration and Dankuni Municipality to remove all illegal *khatal*s/cow sheds from the site in question as expeditiously as possible, preferably within six months. Pursuant to this, the respondent-Dankuni Municipality issued removal notices by pasting them on the walls of the cattle sheds.

4. Aggrieved by the said order dated 31.03.2023 of the National Green Tribunal, the Manoharpur Milk Project Association preferred Civil Appeal No. 5795 of 2023 before the

Hon'ble Supreme Court. Vide order dated 11.12.2023, the Hon'ble Supreme Court modified the directions issued in clause (iv) of paragraph 22 of the impugned order by granting an opportunity of hearing to the cattle shed owners. Subsequently, individual show cause notices were issued, and after granting the petitioners an opportunity of hearing, the respondent-Dankuni Municipality passed the impugned order dated 16.02.2024. Thereafter, the Manoharpur Milk Project Association filed Miscellaneous Application No. 778 of 2024 in Civil Appeal No. 5795 of 2023. The Hon'ble Supreme Court vide order dated 03.05.2024, directed the respondent-Dankuni Municipality to not evict the petitioners based on the order dated 16.02.2024, and once again directed the respondent Municipality to pass a speaking order after granting an effective hearing to the cattle shed owners. The Court fixed 13.05.2024 as the date of such hearing. In compliance thereof, the respondent-Dankuni Municipality passed the demolition order dated 02.07.2024.

5. Being aggrieved by the said demolition order dated 02.07.2024, the Petitioners filed Contempt Petition (Civil) No. 658 of 2024 in Civil Appeal No. 5795 of 2023. The Hon'ble Supreme Court vide order dated 30.08.2024 dismissed the contempt petition granting liberty to the petitioners to challenge the demolition order in accordance with law.

6. In the meantime, the National Green Tribunal took *suo motu* cognizance by registering Miscellaneous Application No. 05/2025/EZ in Original Application No. 112/2022/EZ and vide order dated 02.07.2025 directed the respondent nos. 1 to 7 to file personal affidavits along with Action Taken Report within four weeks. The next date of hearing is fixed on 01.09.2025. Anticipating imminent demolition, the petitioners have preferred the present writ petition seeking to challenge and prevent the demolition of their *pucca* structures.

7. Learned counsel for the respondent-Dankuni Municipality contends that the present writ petition is not maintainable inasmuch as the petitioners have failed to directly assail the demolition order dated 02.07.2024. It is submitted that the prayers made in the

writ petition are merely consequential to the said demolition order, which remains unchallenged and has attained finality. Learned counsel further argues that the demolition action is being strictly undertaken in accordance with law and in compliance with the binding directions passed by the National Green Tribunal as well as the Hon'ble Supreme Court. It is, therefore, urged that no interference is warranted by this Court at this stage, particularly when the petitioners have sought to circumvent the demolition order without questioning its legality or validity.

8. This Court has heard the arguments advanced by the learned counsel for the respective parties and has perused the materials on record.

9. A careful perusal of the impugned demolition order dated 02.07.2024 reveals that it has been passed strictly in compliance with the directions issued by the Hon'ble Supreme Court vide order dated 03.05.2024 in Civil Appeal No. 5795 of 2023. The Hon'ble Apex Court had categorically mandated that a speaking order be passed by the respondent-Dankuni Municipality after affording an effective hearing to the affected parties.

10. The records disclose that the Petitioners, through their representatives of the Manoharpur Milk Project Association were duly heard, and the authority passed a detailed, reasoned order upon consideration of their submissions. The said order records that the petitioners failed to produce even the basic statutory documents required for running of the cattle sheds (*khatahs*) such as Cattle Licensing Certificate in Form-II under Rule 3(5) of the West Bengal Cattle Licensing Rules, 1985, Consent to Establish (CtE) and Consent to Operate (CtO), Ground Water related permission letter from SWID etc. to prove legality of their *khatahs*.

11. The Petitioners made *pucca* constructions without any necessary permission from the competent authority. The Petitioners admit that there is no sanctioned plan or building plan for any of the constructions on the said land. Absence of these mandatory permissions is not a mere technical lapse but constitute a direct violation of environmental, municipal,

and public health laws, thereby rendering the operation of these cattle sheds patently illegal. Moreover, the activities of these unlicensed cattle sheds have a direct and adverse impact on public interest, particularly on environmental integrity and right to a clean and healthy environment, a right recognized under Article 21 of the Constitution of India.

12. The unregulated discharge of cow dung and animal waste into the '*Dankuni Canal*' has caused irreversible ecological degradation, choking a once upon functional water body linked to the river *Ganges*, and contributing to spread of water borne diseases, foul odour and public nuisance. The continued operation of the cattle sheds in densely populated areas, without compliance with the health and sanitation regulations, pose a serious threat to public health and hygiene, especially for residents of the surrounding vicinity. Further, the indiscriminate discharge of cow dung and other effluents directly into the '*Dankuni Canal*', which is a natural water body connected to the river *Ganges*, has resulted in substantial pollution and complete obstruction of water flow. The canal which was once a navigable and ecological significant water course now remains a choked and unusable water body.

13. These facts were judiciously acknowledged by the National Green Tribunal in its order dated 31.03.2023, which found environmental degradation of a serious nature and directed remedial action.

14. In a country grappling with rising urbanization and environmental stress, municipal governance prioritizes ecological preservation and public health over unregulated private activities. The actions of the respondent-Dankuni Municipality, therefore, are in discharge of its statutory duty and in furtherance of larger public growth. This Court cannot ignore the public interest dimension that underlines the present controversy. Allowing the petitioners to continue their operation despite proven illegality would not only defeat the rule of law but also send a message that environmental violations can be regularized by misplaced equitable jurisdiction.

15. It is trite that a person engaged in an activity that violates environmental laws, municipal codes and public health norms cannot invoke Article 226 of the Constitution of India to seek protection. Discretionary relief under Article 226 of the Constitution of India is available only to those who approach the Court with clean hands and with respect to law.

16. The Petitioners have admitted that they have been operating the said cattle sheds for decades without even obtaining lawful permissions, thereby undermining both regulatory framework and the rights of public at large. When the Court queried from the petitioners, they conceded that no license or statutory approvals for running of the cattle sheds were obtained or are presently held by the petitioners for running the said cattle sheds. Their continued occupation and operation of the premises is, therefore, illegal in the eye of law and their activities have contributed directly to the degradation of the environment and public inconvenience.

17. The Court is mindful that equitable jurisdiction under Article 226 is not to be exercised in aid of unlawful conduct or to legitimize structures and operations that are inherently contrary to law. Judicial interference in such matters would not only weaken the hands of lawful administrative action but would also run contrary to public interest and environmental sustainability.

18. In view of the aforesaid facts and circumstances, this Court is of the considered opinion that the demolition order dated 02.07.2024 has been passed in accordance with law, following due process and in faithful compliance with the binding directions of the Hon'ble Supreme Court. The said action is not only legally sustainable but also essential in the interest of the public at large, to protect environmental resources and restore civic order.

19. The present writ petition is accordingly, dismissed.

20. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

21. There shall be no order as to costs.
22. Let urgent Photostat certified copy of this judgment if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)

AKD

