

03.09.2025
Sl. No. 06
Ct No. 41
SG

WPA 19213 of 2025

**Manas Kumar Sengupta & Anr.
Vs
The Howrah Municipal Corporation & Ors.**

Mr. Ayan Banerjee,
Mr. Suman Banerjee.

...for the petitioners

Mr. Sandipan Banerjee,
Mr. Ankit Sureka.

...for the HMC

Ms. Shebatee Datta,
Ms. Poulami Roy.

..for respondent no. 5

1. The grievance of the petitioner is directed against the order dated 04.08.2025.

2. It is submitted on behalf of the petitioners that the impugned communication has been passed in contravention of the earlier order of Court which specifically directed the Commissioner to decide the subject application for regularization. It is further submitted on behalf of the petitioners that the impugned order is a verbatim reproduction of the earlier order passed by the respondent authorities and there has been no application of mind in passing the same.

3. By the impugned order, the petitioners have been found to have violated the Howrah Municipal

Corporation Act, 1980 read alongwith extant Rules and Regulations and the petitioners were directed to demolish the concerned portion.

4. It is submitted on behalf of the private respondent that the Section 177(1) third proviso permits the Commissioner to regularize minor deviations. The deviation in the present case is allegedly in excess of almost 800 square feet in total.

5. It is evident that the impugned communication directing demolition is a verbatim reproduction of the earlier order passed in the prior round of litigation.

6. By an order dated 20.05.2025 passed in WPA 7973 of 2025 the Commissioner, Howrah Municipal Corporation was directed to take an independent decision strictly in accordance with law after affording an opportunity of hearing to all the parties. There has been no compliance with the said direction. The replication of the impugned order in the first round of litigation is in violation of the principles of natural justice and demonstrates non application of mind. There is no finding whatsoever in the impugned order.

7. In view of the submissions made on behalf of the Howrah Municipal Corporation, the impugned order is set aside. The matter is remanded back to the Commissioner to decide the same afresh in accordance

with law regarding regularization and in terms of the earlier of the Court.

8. The Commissioner shall provide a right of hearing to all the parties and shall pass an order within six weeks from the date of communication of this order.

9. It is made clear that there has been no adjudication on the merits of the case and all issues are left open to be decided in accordance with law.

(Ravi Krishan Kapur, J.)