

10. 19.11.2025
Court No.03.
(Pritam)

WPA 23704 of 2025.

Rathin Saha.

-Vs.-

The State of West Bengal & Ors.

Mr. Avishek Bhandari,
Mr. Rupak Gupta,
Ms. Anamika Pandey.

....for the petitioner.

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
Mr. Samrat Chakraborty.

.....for the respondent nos.9 & 10.

1. The writ petition has been filed, *inter alia*, for a direction upon the respondent nos.4 & 5 to forthwith demolish the unauthorized construction of a lift-shaft structure at the East Block of the Naba Ananda Niketan Co-operative Society Ltd., (hereinafter referred to as the “said co-operative society”) situated at 632 Dum Dum Park, Police Station – Lake Town, Kolkata-700055 in the district of North 24 Parganas and for strict compliance of the West Bengal Municipal Act, 1993.
2. The petitioner is a senior citizen and is a lawful occupier of a residential Flat No.16 of the above-mentioned society. The petitioner would complain that in the Annual General Meeting held in 2023, the co-

operative society had raised an agenda pertaining to the requirement and construction of lift/elevator at the East Block where the petitioner currently resides. According to the petitioner, at the said AGM, the petitioner had categorically stated that the construction of the lift/elevator must be undertaken with the sanction from the municipal authorities and from the fire services authority. The petitioner would submit that the lift that has come up interferes with the flow of light and air to the petitioner's flat. Accordingly, the petitioner had raised objection. The petitioner had also notified the aforesaid fact to the municipal authorities by lodging appropriate complaint. Notwithstanding the above since nothing has been done, the petitioner has approached this Court. The learned advocate for the petitioner at the time of hearing would insist that the construction of the lift, is, in fact, an unauthorized construction and the same should be dismantled.

3. Mr. Roy, learned advocate appears for the co-operative society and placed before this court a resolution adopted by the said co-operative society at the AGM held on 30th July, 2023.
4. By drawing attention of this Court to the minutes of the resolution, he would submit that the petitioner who was present in the meeting had proposed installation of railings support on the other side of the

staircase when the decision to install the elevator was taken. The petitioner had in fact approved the construction of the elevator. The name of the petitioner appears in the attendance sheet and the observations made by the petitioner also recorded is in such meeting.

5. Further by drawing attention of this Court to a structural stability report issued by the petitioner, he would submit that he had inspected the building of the co-operative society and had issued structural stability certificate certifying in his capacity as a Chartered Engineer/Approved Valuer that he is satisfied with the building's structural strength and stability for installation and operation of two (machine-room-less) lifts on the East and West blocks of the building.
6. The aforesaid structural stability certificate issued by the petitioner on 2nd February, 2023 is also taken on record along with the minutes of the meeting of the co-operative society dated 30th July, 2023.
7. I find that the construction of the lift has long been completed, and the elevator has already been made operational. It would transpire that the aforesaid writ petition has been filed as an afterthought. This apart, it would be relevant to note that since, the construction of the lift is without machine-room and is in the nature of home lift, the same is exempt from the provisions of West Bengal Lifts, Escalators and

Travelator Rules, 2022 (hereinafter to referred as the “said Rules”).

8. A Division Bench of this Court in the case of Satyanarayan Khaitan vs. The Joint Chief Electrical Inspector & Member Secretary (Lifts), Directors of Electricity, Government of West Bengal & Ors. in MAT 1468 of 2023 reported in AIR OnLine 2024 Cal 1741, observed that there is no requirement for seeking any permission from anyone under the said Rules for construction of such lift. Although certain disputes has been raised by the petitioner’s advocate as to whether the lift in question is a “home lift” or not, however, having regard to the conduct of the petitioner in proposing construction of the home lift and issuing stability certificate, I am of the view that there is no scope to grant any relief to the petitioner in the instant case as none can be permitted to approbate and reprobate at the same time.
9. The writ petition is, accordingly, dismissed.
10. There shall be no order as to costs.

(Raja Basu Chowdhury, J.)