

07.07.2025
Sl. No. 11
Ct No. 3
SG

WPA 27174 of 2024

**Sajal Rakshit & Ors.
Vs
The State of West Bengal & Ors.**

Mr. Prosenjit Mukherjee,
Mr. Kunal Ganguly.
... for the petitioners

Mr. Birendra Kumar Jha.
...for the State

Mr. Chiranjib Sinha.
...for respondent no. 8

1. Affidavit-of-service is taken on record.
2. The petitioners have preferred the present writ petition being aggrieved by the impugned memo bearing no. 206/21/J.M. dated 03.08.2024 by the Executive Officer, Jhalda Municipality. By the said memo, the petitioners who are lessee of stalls situated in Block – N, Jhalda Municipality, were directed to vacate their respective premises on the ground that the building in question has been declared dangerous and unfit for human habitation by the Ramkrishna Mahato Government Engineering College, Purulia. Relying on the said report, the Board of Councillors, exercising powers under Section 223 of the West Bengal Municipal Act, 1993, resolved to vacate the building to prevent any threat to life or bodily harm of any of the occupants.

3. The petitioners contend that they are lawful lessee in respect of municipal stall nos. 04, 06 and 10 of block N under valid lease agreement executive in the year 1998, and the petitioners have been paying rent without any differ. According to the impugned notice that has been issued abruptly and without following the due process mandated under Section 223 of the West Bengal Municipal Act, 1993. They further submit that they were neither notified nor provided with any opportunity of hearing before the issuance of the impugned memo dated 03.08.2024. Learned Counsel for the petitioners state that it is their specific case that the structure condition of the building is not as precarious as projected by the respondent-municipality. They assert that the report of the Ramkrishna Mahato Government Engineering College, Purulia, which forms part of the impugned action, has not been furnished to them. The petitioners also allege that the impugned notice is vague, general in nature and does not specify any timeline for demolition or making provision for their rehabilitation, which is essential in considering their long-standing lease deed.

4. Learned Counsel for the respondents states that the petitioners have replied to the said notice and have admitted to some minor repairs in the building.

Though the learned Counsel for the Jhalda Municipality is unable to show the compliance with Section 223 of the West Bengal Municipal Act, 1993 before declaring any building to be demolished for being dangerous, ruinous or unfit for human habitation.

5. A bare perusal of the impugned memo dated 03.08.2024 reveals that it is a general notice addressed to all the occupants of the building and does not comply with the requirement of issuance of individual notices to the affected habitants of the building. The petitioners were deprived of their rights to respond to specific allegations regarding the condition of the premises being declared to be dangerous, thereby violating the principle of natural justice. A conjoint reading of Section 223 of the West Bengal Municipal Act, 1993 reveals that before the building can be declared dangerous or unfit for occupation, the municipality is required to follow certain procedural safeguards, including proper inspection, communication of the finding to the affected parties and grant an opportunity of being heard. In the present case, none of these procedural steps appear to have been followed by the municipality before issuance of the impugned memo dated 03.08.2024. The non-disclosure of the expert's report,

the absence of individual notices and failure to provide an opportunity of hearing to the petitioners render the impugned memo legally unsustainable.

6. In light of the above observation and for violation of principles of natural justice, the impugned memo dated 03.08.2024 is hereby quashed and set aside.

7. The respondents are directed to:-

(i) Furnish a copy of the structural inspection report prepared by the Ramkrishna Mahato Government Engineering College, Purulia within a period of one week from the date of communication of this order.

(ii) The petitioner shall be granted a personal hearing within two weeks thereafter.

(iii) A reasoned speaking order upon due consideration of petitioners' submissions shall be passed within one week thereafter.

8. It is made clear that this Court has not expressed any opinion on the merit of the structural integrity of the building and all the contentions are left open to be decided by the competent authority in accordance with law.

9. With the above direction, the present writ petition is disposed of.

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

11. There shall be no order as to costs.

12. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)