

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

**RESERVED ON: 28.10.2025
DELIVERED ON: 07.11.2025**

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

WPA 29556 OF 2024

DEBASIS CHAKRABORTY

VERSUS

THE STATE OF WEST BENGAL & ORS.

Appearance:-

**Ms. Shraboni Sarkar, Adv.
Ms. Umme Habiba Khatun, Adv.**

..... for the Petitioner.

**Mr. Saptangshu Basu, Sr. Adv.
Mr. Sayan Sinha, Adv.
Mr. Adil Naser, Adv.**

..... for respondent nos. 2 to 5.
(Bongaon Municipality)

**Mr. Susovan Sengupta, Adv.
Mr. Manas Kumar Sadhu, Adv.**

.....for the State

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioner has preferred the present writ petition assailing the order bearing No. BM/3381 dated 21.10.2024, passed by the Respondent Municipality, in relation to the premises being Holding No. 25/290, Ward No. 10, Plot No. 2799/3965, situated at Ratepara, Police Station Bongaon, District North 24 Parganas, PIN – 743235. By the said order, the Petitioner was directed to demolish the alleged unauthorised construction, failing

which the Respondent Municipality proposed to undertake such demolition at the Petitioner's cost.

- 2.** The brief facts leading to the present writ petition are as follows:
- 3.** The Petitioner is the absolute owner of the land comprised in Holding No. 25/290, Plot No. 2799/3965, Khatian No. 13682, Mouza – Bongaon, Ratepara, Police Station Bongaon, District North 24 Parganas, PIN – 743235, which stands duly mutated in his name in the records of the Respondent Municipality.
- 4.** In the year 1995, in accordance with the provisions of the West Bengal Municipal Act, 1993, the Petitioner applied for sanction of a building plan for construction of a two storied building over the said plot of land. The said building plan was sanctioned on 30.03.1995, and pursuant thereto, the Petitioner constructed the said two storied building, which was completed in the year 1996.
- 5.** Subsequently, after his retirement, the Petitioner, submitted a fresh application dated 29.03.2022 before the Respondent Municipality seeking sanction of a building plan for the construction of additional floors over the existing structure. The said application was filed in accordance with law along with all requisite documents. Upon enquiry regarding the status of the said application, the officials of the Respondent Municipality informed the Petitioner that the building plan had already been sanctioned through online mode, and accordingly, they returned all documents, including the application and the proposed plan, to the Petitioner.
- 6.** In view thereof, the Petitioner commenced construction of the third and fourth floors over the existing two-storied structure.

7. Subsequently, upon receipt of certain complaints, the Respondent Municipality, vide letter dated 01.06.2022, directed the Petitioner to stop all construction work. The Petitioner duly complied with the said direction and halted construction. An inspection of the premises was thereafter conducted on 08.07.2022.
8. As no further steps were taken by the Respondent Municipality regarding the approval of the Petitioner's pending building plan, the Petitioner submitted two representations dated 01.08.2022 and 02.01.2023, requesting necessary action.
9. After an inordinate delay of nearly eight months, the Respondent conducted another inspection of the premises. Thereafter, the Petitioner was served with a notice under Section 218 of the West Bengal Municipal Act, 1993 read with the West Bengal Municipal (Building) Rules, 2007, directing him to appear before the Board of Councillors of the Respondent Municipality on 25.04.2023. The Petitioner duly appeared on the said date and submitted his written statement. Upon conclusion of the hearing, the Respondent Municipality passed the impugned order vide Memo No. BM/3381 dated 21.10.2024, directing the Petitioner to demolish the alleged unauthorised construction at his own expense, failing which the Municipality would carry out the demolition at the Petitioner's cost.
10. Being aggrieved by the arbitrary and illegal action of the Respondent Municipality and the impugned order dated 21.10.2024, the Petitioner has preferred the present writ petition before this Court seeking appropriate reliefs.

Submission on behalf of the Petitioner

11. Learned Counsel for the Petitioner submits that the building in question was initially constructed in the year 1996 strictly in accordance with the building plan duly sanctioned by the Respondent Municipality on 30.03.1995. The said construction comprised a two-storied residential building over the Petitioner's plot of land and was completed in full conformity with the sanctioned plan and the provisions of the West Bengal Municipal Act, 1993.
12. It is further contended that, after his retirement, the Petitioner, being desirous of extending the existing building to accommodate his family requirements, submitted an application dated 29.03.2022 before the Respondent Municipality seeking sanction of a revised building plan for the construction of additional floors over the existing structure. The said application was made in accordance with law and was accompanied by all requisite documents, drawings, and prescribed fees.
13. It is submitted that upon subsequent enquiry, the officials of the Respondent Municipality informed the Petitioner that the said building plan had been sanctioned through the online portal, and accordingly, they returned to the Petitioner the original application and all supporting documents, including the proposed building plan. Relying upon such representation and acting under a bona fide belief that the sanction had indeed been granted, the Petitioner commenced construction of the third and fourth floors over the existing two-storied building. It is further urged that the said construction was undertaken in good faith, without any intention to violate municipal norms or to carry out unauthorised work.

- 14.** Learned Counsel further submits that the Petitioner executed the said construction work in strict adherence to the existing building rules and regulations. However, upon receiving a direction from the Respondent Municipality vide letter dated 01.06.2022 to stop the ongoing construction, the Petitioner immediately complied with the said instruction and discontinued all construction activities forthwith. Since then, no further construction has been carried out at the said premises.
- 15.** It is further submitted that, despite the Petitioner's compliance and his subsequent representations dated 01.08.2022 and 02.01.2023, wherein he requested the Respondent Municipality to take appropriate steps for consideration and approval of his pending building plan, no effective action was taken by the Respondent authority. Instead, after a prolonged and unexplained delay, the Respondent Municipality proceeded to issue the impugned order bearing No. BM/3381 dated 21.10.2024, directing the Petitioner to demolish the alleged unauthorised construction at his own cost.
- 16.** It is contended that the said order has been passed in gross violation of the principles of natural justice, inasmuch as the Respondent failed to take into account the Petitioner's representations, the circumstances under which the construction was undertaken, and the fact that the Petitioner acted on the bona fide belief that the plan had been duly sanctioned. The impugned order, therefore, suffers from arbitrariness, procedural irregularity, and non-application of mind, warranting interference by this Court.

Submission on behalf of the Respondent

17. Learned Counsel for the Respondent Municipality, on the other hand, opposes the writ petition and submits that the Petitioner had undertaken the construction of additional floors without obtaining any valid sanction as mandated under the provisions of the West Bengal Municipal Act, 1993 and the West Bengal Municipal (Building) Rules, 2007. It is contended that the Petitioner proceeded with the construction in utter disregard of the statutory requirements and without the prior approval of the competent municipal authority.
18. Learned Counsel for the Respondent Municipality further submits that several residents of the locality lodged a written complaint dated 25.05.2022 before the Hon'ble Minister of Municipal Affairs and Housing, Government of West Bengal, alleging that the Petitioner was carrying out illegal and unauthorised construction in connivance with the local Councillor and the Chairman of the Respondent Municipality. Acting upon the said complaint, a stop work notice was issued on 01.06.2022, directing the Petitioner to discontinue the ongoing construction immediately.
19. Pursuant thereto, an inspection was conducted on 08.07.2022, which revealed that the ground floor of the said building measured approximately 1019 sq. ft., out of which 272 sq. ft. was used for commercial purposes and 747 sq. ft. for residential purposes. The first and second floors each measured 1148 sq. ft. and were used exclusively for residential purposes, while the third floor measured 114 sq. ft. In total, a four-storied structure admeasuring 8863 sq. ft. had been constructed by the Petitioner without any sanctioned plan and in complete violation of municipal regulations.

- 20.** It is further submitted that a hearing was conducted on 25.04.2023, during which the Petitioner appeared and filed a written submission, expressly admitting that the construction had been undertaken without any sanctioned plan. The Petitioner also admitted to having entered into a development agreement with private builders for the construction of a multi-storied building. In view of such admission and the findings of the inspection, the Respondent Municipality, by the impugned order dated 21.10.2024, directed the Petitioner to demolish the unauthorised construction at his own cost within sixty (60) days, failing which the Municipality would carry out the demolition at the Petitioner's expense.
- 21.** It is further contended that the Petitioner's alleged application dated 29.03.2022 was never submitted to the Respondent Municipality for consideration. Learned Counsel for the Respondent points out that the said document bears the counter-signature of a Licensed Architect dated 27.04.2022, which itself establishes that the Petitioner's claim of having submitted the application on 29.03.2022 is factually incorrect and misleading. It is thus contended that the Petitioner's assertion that the building plan had been approved online and that the documents were returned after such approval is false, baseless, and devoid of merit.
- 22.** Learned Counsel further submits that the Petitioner had, in fact, commenced construction of the multi-storied building on the strength of a development agreement entered into with certain builders, without any lawful permission or sanctioned plan, thereby violating the mandatory provisions of Sections 218 and 220 of the West Bengal Municipal Act, 1993. Upon receipt of multiple complaints from residents regarding the ongoing illegal construction, the Respondent Municipality conducted

inspections on 08.07.2022, which revealed extensive unauthorised construction beyond the sanctioned plan of 1995. Consequently, a stop work notice was issued on 01.06.2022, restraining the Petitioner from proceeding further with the construction.

23. It is further submitted that after following due process of law, the Petitioner was issued a notice under Section 218 of the West Bengal Municipal Act, 1993 read with the West Bengal Municipal (Building) Rules, 2007, and was afforded an opportunity of hearing before the Board of Councillors on 25.04.2023. The Petitioner duly appeared and submitted his written explanation, which was duly considered by the competent authority. However, as the Petitioner failed to produce any valid sanctioned plan or approval from the appropriate authority, the Respondent Municipality had no alternative but to treat the construction as unauthorised and to proceed in accordance with law.

24. It is, therefore, contended that the impugned order bearing No. BM/3381 dated 21.10.2024 was passed only after following the prescribed statutory procedure and after affording adequate opportunity of hearing to the Petitioner. The same, therefore, cannot be termed arbitrary, illegal, or violative of any statutory provisions. The Respondent asserts that the Municipality has acted strictly within its jurisdiction and in discharge of its statutory obligations to enforce building regulations and to prevent unauthorised constructions within its territorial limits.

Legal Analysis

25. This Court has heard the arguments advanced by the Learned Counsel for the Petitioner and the Respondent Municipality at length and have carefully perused the materials placed on record.

- 26.** The facts are largely undisputed. The Petitioner had initially constructed a two-storied residential building on the basis of a duly sanctioned plan dated 30.03.1995. Thereafter, without obtaining any further sanction or approval from the competent authority, the Petitioner entered into a development agreement with private builders for the reconstruction of the entire building into a multi-storied structure consisting of four floors. Thus, the present construction is not merely an extension or vertical addition to an existing lawful structure, but a completely new building raised without any valid sanction plan.
- 27.** The Petitioner contends that he had submitted an application dated 29.03.2022 seeking approval for the proposed construction and that the municipal officials orally informed him that the plan had been approved “through online mode.” However, this Court finds that the Petitioner has not produced a single document evidencing such online approval, nor any official communication from the Respondent Municipality confirming the same. The record also reveals that the said application bears the counter-signature of the Licensed Architect dated 27.04.2022, thereby clearly falsifying the Petitioner’s statement that it had been submitted earlier on 29.03.2022. This inconsistency, coupled with the absence of any digital approval record, renders the Petitioner’s claim unsubstantiated and untenable.
- 28.** On the contrary, the Respondent Municipality has placed on record the complaint dated 25.05.2022 lodged by local residents before the Minister of Municipal Affairs and Housing, Government of West Bengal, alleging that the Petitioner was carrying out illegal construction in collusion with certain municipal functionaries. Acting upon the said complaint, the

Municipality issued a stop work notice dated 01.06.2022 and subsequently conducted an inspection on 08.07.2022. The inspection report recorded that the Petitioner had reconstructed the entire building into a four-storied structure admeasuring approximately 8863 sq. ft., comprising both commercial and residential use, and that no part of the said structure was covered under any sanctioned plan.

- 29.** It further appears from the records that a hearing was conducted on 25.04.2023 under Section 218 of the West Bengal Municipal Act, 1993, wherein the Petitioner appeared and filed a written submission admitting that the reconstruction was carried out without any sanctioned plan. The Petitioner also categorically admitted that he had entered into a development agreement with private builders for the purpose of redeveloping the said premises into a multi-storied building. This admission, coupled with the inspection findings, clearly establishes that the entire structure, and not merely the upper floors, is unauthorised and illegal.
- 30.** The provisions of Sections 218 and 220 of the West Bengal Municipal Act, 1993 mandate the Municipality to act decisively against any construction made without sanction. In the present case, the Respondent authority has followed the procedure prescribed by law, a stop work notice was issued, inspections were conducted, an opportunity of hearing was provided, and the Petitioner's explanation was duly considered. The impugned order thus reflects a reasoned decision taken after following due process.
- 31.** The plea of the Petitioner that he acted under a bona fide impression based on alleged oral communication from municipal officials is wholly untenable. It is trite law that no oral assurance or administrative inaction

can legalise an act which is otherwise in direct contravention of statutory provisions. Any construction undertaken without a validly sanctioned plan is per se illegal, irrespective of the motive or intent of the person responsible. The Petitioner, being the landowner and signatory to the development agreement, cannot disclaim responsibility for the unauthorised construction carried out on his land.

- 32.** It is well settled that while exercising jurisdiction under Article 226 of the Constitution of India, this Court does not sit as an appellate authority over the decision of the municipal authorities in matters relating to building sanction or demolition. The scope of judicial review in such cases is confined to examining the decision-making process rather than the decision itself. In the present case, no material has been placed on record to indicate that the action of the Respondent Municipality was tainted by mala fides, bias, or arbitrariness, nor has any such allegation been specifically pleaded by the Petitioner. The records clearly demonstrate that the Respondent authority acted strictly in accordance with law by conducting due inspection, issuing requisite statutory notices, affording an opportunity of hearing to the Petitioner, and thereafter passing a reasoned and speaking order. Hence, this Court finds no procedural irregularity or violation of natural justice warranting interference under writ jurisdiction.
- 33.** This Court, therefore, finds no infirmity in the decision of the Respondent Municipality in directing demolition of the unauthorised structure. The impugned order bearing No. BM/3381 dated 21.10.2024 is a speaking and reasoned order, passed after affording adequate opportunity of hearing to the Petitioner. The same has been issued in strict compliance with Sections 218 and 220 of the West Bengal Municipal Act, 1993, and does

not suffer from arbitrariness, mala fides, or procedural irregularity. Accordingly, the action of the Municipality is upheld as being legal, valid, and in furtherance of its statutory duty to prevent unauthorised constructions.

- 34.** In view of the above, this Court holds that the entire four storied building erected by the Petitioner pursuant to the development agreement is unauthorised, having been constructed without any sanctioned plan. The Municipality was fully justified in directing its demolition. Consequently, the writ petition is dismissed. The Respondent Municipality is at liberty to proceed with the demolition of the said unauthorised structure in accordance with law, if the Petitioner fails to voluntarily comply with the impugned order within the period stipulated therein.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)