GAHC010004912025

2026:GAU-AS:15110

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/162/2025

MD. ABDUL HAMID
S/O LATE HUZURUDDIN HAMID @ HUZURDDIN AHMED, R/O SADILAPUR, ADARSHA NAGAR, WARD NO. 1, P.O.-GARIGAON, P.S.-JALUKBARI, DIST-KAMRUP (M), ASSAM-781012

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, URBAN DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
GUWAHATI-781001

3:ASSISTANT TOWN PLANNER
GUWAHATI MUNICIPAL CORPORATION
PLANNING BRANCH
GUWAHATI-781001

4:THE PRESIDENT/SECRETARY
ADARSHA NAGAR UNNAYAN SAMITY
PANDU
SADILAPUR
GUWAHATI-781012

5:HUKUM SHAN ALI BOXI
COUNCILOR
WARD NO. 1
GMC
S/O LATE LAL JANDHI SHEIKH BOXI

R/O GARIGAON
PHOLANPARA
P.O.-GARIGAON
P.S.-JALUKBARI
DIST- KAMRUP (M)
ASSAM-78101

For the Petitioner(s) : Mr. K. Singha, Advocate

For the Respondent(s) : Mr. S. Bora, Standing Counsel
Mr. S.I. Akand, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 07.10.2026

Heard Mr. K. Singha, the learned counsel for the petitioner. Mr. S. Bora, the learned Standing Counsel appears on behalf of the GMC and Mr. S.I. Akand, the learned counsel appears on behalf of the respondent No. 4.

2. The present writ petition has been filed by the petitioner assailing a notice dated 24.12.2024 whereby the petitioner was asked to show cause as to why the GMC authorities should not proceed under Sections 337(3) and 337(A)(1) of the GMC Act, 1971 to demolish/seal the unauthorized construction as mentioned in Schedule A to the said notice. It is seen that pursuance thereto, the petitioner has submitted a reply on 30.12.2024.

3. Surprisingly, the petitioner has approached this Court by filing the instant writ petition without awaiting the decision in the said show cause proceedings.

4. From the materials on record, it is apparent that the Commissioner, GMC has the jurisdiction under the GMC Act, 1971 to issue the show cause notice.

5. Under such circumstances, as the Commissioner, GMC has the jurisdiction to issue the said show cause notice, the question of entertaining the instant writ petition at this stage against the show cause proceedings would not be in the interest of justice.

6. Be that as it may, it is also relevant to take note of that the petitioner has submitted a detailed reply providing various factual aspects, for which this Court is of the opinion that the petitioner should be granted an opportunity of hearing before any decision is taken.

7. Considering the above, the instant writ petition stands disposed of with the following observations and directions:

(i) This Court is not entertaining the instant writ petition challenging the notice dated 24.12.2024 inasmuch as the Commissioner, GMC has the jurisdiction to initiate proceedings against any illegal construction.

(ii) The question whether there is any illegal construction

or not can be decided by the Commissioner, GMC upon hearing the petitioner and as such, an opportunity of personal hearing should be granted to the petitioner prior to taking any decision in pursuance of the notice dated 24.12.2024.

(iii) This Court further directs that in the circumstance any decision is taken by the Commissioner, GMC after hearing the petitioner, the petitioner would be at liberty to avail the remedies available under the GMC Act, 1971 as well as before this Court, if permissible under law.

(iv) Interim order, if any, stands vacated.

JUDGE

Comparing Assistant