

Item No.17
25.03.2026
Court. No. 12
GB

MAT 130 of 2026
With
CAN 1 of 2026

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

*Mr. Ayan Banerjee,
Mr. Suman Banerjee*

...for the Appellants.

*Mr. Sandipan Banerjee,
Mr. Ankit Sureka*

...for the HMC.

*Ms. Shebatee Dutta,
Ms. Poulami Roy*

...for the Respondent No.5.

1. Certified copy of the order impugned filed in Court, is taken on record.
2. The issue before us is whether the learned Single Judge could have directed demolition upon holding that the deviations in the construction of the appellant were not minor deviations and the construction of 611 Sq. ft. could not be regularized. The appellant contends that the report, on the basis of which His Lordship had come to the above findings, was also relied upon the Commission, but the appellant did not get a chance to deal with the same. For the first time the same was filed before His Lordship.
3. Although, Ms. Dutta, learned advocate for the writ petitioner/respondent no.5 submits that the report was supplied in Court, we find from the records that

the Commissioner who directed the demolition, relied on a report and directed demolition, without disclosing the contents of the report.

4. In the first round of litigation a learned Single Judge directed the Commissioner of Howrah Municipal Corporation (HMC) to dispose of the appellants' application seeking regularization of the deviations. Instead of the Commissioner of HMC, the Assistant Engineer passed the order. That too, the order did not deal with the regularization aspect, but pointed out to the unauthorized constructions. Another learned Single Judge set aside the order and directed the Commissioner HMC to decide the matter in accordance with the provisions of Section 177 of the Howrah Municipal Corporation Act, 1980. Thereafter, the Commissioner HMC passed an order upon consideration of an inspection report of October 31, 2025, which was not supplied to the appellants and directed demolition of the unauthorized portions by the Assistant Engineer of Borough-VII of the Corporation. Such order was under challenged in the writ petition.
5. It is an admitted position that the inspection report dated October 31, 2025 was not handed over to the appellants. Even if the report indicated that regularization could not be made in view of the extensive nature of unauthorized constructions, the

order impugned before the learned Single Judge should have reflected so. Moreover, if any report is used which can adversely affect a party, the party should be supplied with a copy of the report. Non-supply of the report amounted to violation of the principles of natural justice.

6. His Lordship's order is based on the report, which was withheld from the appellants by HMC. The procedure that ought to have been followed in order to do complete justice to the parties, was not followed. The inspection report should have been served upon the appellant and also upon the person who lodged the complaint against such unauthorized constructions. They should have been allowed to make submissions on the basis thereof.
7. Undoubtedly, the law requires the Commissioner to pass a reasoned order as to why the regularization should or should not be allowed. It was absolutely the discretion of the Commissioner, whether to allow regularization or not. It was also within the discretion of the Commissioner to hold that the nature of construction of the appellant did not entitle regularization. However, these aspects should have been reflected in the order, upon hearing all the parties and upon allowing the appellant to deal with the report. The report was prepared on the basis of a joint inspection, when all parties were present. Ends

of justice required that such report should have been supplied to the parties.

8. Under such circumstances, we set aside the order of the learned Single Judge as also the order of the Commissioner only on the ground of procedural irregularity and direct the appellant to file a response to the said report within 10 days before the Commissioner, Howrah Municipal Corporation. We are told that the report was handed over in court. The complainant, who is the respondent no.5 in the appeal is also entitled to file a response to the said report and the Commissioner will grant a hearing to the parties and decide whether the existing unauthorized constructions could be regularized or not, by strictly applying the provisions of the Act and Rules. The order shall be communicated to all and reasons supporting the decision should be available from the order. The Commissioner will decide the matter within June 15, 2026. Upon the finding arrived at by the Commissioner, and if regularization is not allowed, demolition will be effected promptly.
9. Only because the authorities are not being able to construe the orders of the High Court in their proper spirit, the delay has occurred.
10. Accordingly, the appeal and the connected application are disposed of.

11. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)