

15.06.2026
Sayandeep
Sl. No. 01
Ct. No. 03

WPA 4604 OF 2025

Samar Kumar Das

-versus-

The Kolkata Municipal Corporation & ors.

Mr. Arijit Dey

..... for the petitioner

Mr. Biswajit Mukherjee

Ms. Fazlul Haque

..... for the KMC

1. The present writ petition has been filed, *inter alia*, challenging an order of demolition passed under the provisions of Section 400(8) of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the said Act), the MIC meeting dated 9th March, 2024 and the order dated 30th December, 2024 passed by the Municipal Commissioner. Records would also reveal that one Kamgar Iqbal had invoked the jurisdiction of Hon'ble Court under Article 226 of the Constitution of India in WPA 18077 of 2024 alleging illegal construction at premises No. 34/2, Barwaritala Road, P.O. & P.S. Beliaghata under Ward No. 34, Borough-III of the Kolkata Municipal Corporation. By an order dated 8th October, 2024, a co-ordinate Bench of this Court was, *inter alia*, pleased to dispose of the same by directing the Municipal Commissioner, KMC to cause an inspection through the competent engineer under his control and if, it is found that any illegal construction

has been made to pass a reasoned order on the basis of the representation made by the petitioner's advocate dated 18th May, 2024.

2. In furtherance thereto, the municipal authorities had passed the order dated 30th December, 2024 by observing that on the basis of the inspection carried out by the department on 25th January, 2024, it was found that Bachhu Samanta and others had constructed unauthorized RCC column up to a height of 2.9 meter without any sanction building plan, and a stop work notice dated 25th January, 2024 and police intimation thereof dated 27th January, 2024 was also given. Following the aforesaid, a demolition order under Section 400(8) of the said Act was passed in the MIC meeting on 9th March, 2024. Following the aforesaid, a demolition program was also fixed on 16th March, 2024 and partial demolition was carried out at the first floor level. The person responsible was directed to carry out demolition of the portion constructed at the premises No. 34/2, Barwaritala Road, P.O. and P.S. Beliaghata under Ward No. 34, Borough-III of the Kolkata Municipal Corporation within 7 days.

3. The petitioner has approached this Court challenging the above orders. It is submitted that the order under Section 400(8) and the order dated 30th December, 2024 was passed without giving any opportunity of hearing to

the petitioner and violation of principles of natural justice is alleged. This Court without entering into the question as to whether the petitioner was entitled to notice or was heard, since, the petitioner alleges violation of principles of natural justice, this Court had given opportunity to the petitioner to place his case and produce before this Court the sanctioned building plan based on which the construction has been carried out. The learned advocate for the petitioner is unable to place any sanctioned building plan before this Court. He only insists that since, no hearing was granted in furtherance to the order so passed by this Court, the order should be set aside.

4. It is well settled that violation of principles of natural justice cannot be sought for by a person who himself fails to demonstrate how he is prejudiced. Admittedly, this is a case of illegal construction, without sanctioned building plan the construction has come up. Despite being called upon by this Court, the petitioner has failed to demonstrate that there is any sanctioned building plan. Procedural fairness requires fairness on both sides. The Court should not mechanically to set aside the order. Since, the petitioner is unable to disclose the sanctioned building plan, as such it is unlikely that any difference would come about if the matter is reheard by the authority. In the

circumstances as aforesaid, this Court is not inclined to entertain the writ petition.

5. Accordingly, the writ petition stands dismissed without any order as to costs.

6. The municipality shall be at liberty to proceed and enforce the order for demolition in accordance with law.

(Raja Basu Chowdhury, J.)