

07.04.2026
M/L No.27-28
Court No.12
(gc)

**MAT 438 of 2024
With
MAT 439 of 2024**

**Sri Kalyan Ghosh
Vs.
Howrah Zilla Parishad & Ors.**

Mr. Supratick Syamal,
Ms. Arkarupa Roy

...for the Appellant.

Mr. Apurba Kr. Ghosh,
Mr. Supratim Laha,
Mr. Rudranil Ghosh

...for the Private Respondents.

1. In our view, the order impugned does not suffer from patent illegality. Two writ petitions were disposed of by an order dated January 25, 2024. One writ petition was filed by the respondent nos.5, 6 and 7 challenging an order of District Engineer, Howrah Zilla Parishad, *inter alia*, holding that the construction of the said respondents was unauthorized. The other writ petition was filed by the appellant seeking implementation of the order of demolition. Her Lordship did not interfere with the order of demolition and no order in favour of the respondent nos.5, 6 and 7 protecting the said construction was passed. However, considering the bye-laws, Her Lordship allowed the respondent nos.5, 6 and 7 to make a representation before the District Engineer, Howrah Zilla Parishad seeking regularization

of the said construction. It appears that Her Lordship further directed the District Engineer, Howrah Zilla Parishad to dispose of the representation of the respondents within four weeks from the date of receipt of the representation. The representation was to be made within two weeks from the date of the order of Her Lordship. The appellant submits that such representation was not made and as such the order of demolition should be implemented. It is further submitted by the appellant that Her Lordship could not have directed the authority to consider the issue of regularization. Regularization is not permitted in law.

2. The learned Advocate for the respondent nos.5, 6 and 7 submits that the representation could not be filed due to pendency of the appeal. The bye laws provide for regularization.
3. In our view, if the respondent nos.5, 6 and 7 have failed to file their representation within the time fixed by Her Lordship, it gives rise to a fresh cause of action and the appellant is at liberty to take steps in accordance with law, alleging non-compliance of the order of Her Lordship. However, this issue is not relevant for consideration by the appeal court as we are only concerned with the correctness of the order impugned. Secondly, when the bye laws are not under challenge. Granting a liberty to the respondent nos.5, 6 and 7 to

pray for regularization, cannot be said to be patently illegal or perverse. It is true that the West Bengal Panchayat does not permit regularization, but in that case the bye law would have to be challenged. Her Lordship had not directed the authority to allow regularization. Her Lordship had only granted liberty to the respondents to make a prayer for regularization within two weeks and the authority was directed to dispose of the same in accordance with law within four weeks thereafter. No mandatory order for regularization was passed. Undoubtedly, the authority shall decide such issue on the basis of the present legal position on the issue of regularization.

4. Under such circumstances, we are not inclined to interfere with the order impugned at this stage.
5. Accordingly, both the appeals are disposed of.
6. There shall be no order as to costs.
7. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)