D/L.14.
November 20, 2026.
KAUSHIK

**WPA No. 8184 of 2026**

Manoj Kumar Chowbey
Vs.
Hooghly Chinsurah Municipality & Ors.

Mr. Sukumar Bhattacharya
Ms. Oindrila Chatterjee
Ms. Subhangi Bhattacharya
… for the petitioner

Ms. Madhumita Patra
Mr. P. Das
… for the respondent no. 3

Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury
… for the Respondent no. 1

1. Assailing the order passed by the Board of Councilors in compliance with the order dated 16 December, 2024, passed by this Court in WPA 5580 of 2016, along with WPA 13605 of 2009, communicated by the Chairman, Hooghly-Chinsurah Municipality (the Municipality), on behalf of the Board of Councilors, the instant writ petition has been filed.
2. Learned advocate appearing on behalf of the petitioner submits that the petitioners in WPA 13605 of 2009 have prayed for setting aside the order dated 24 July, 2009, passed by

the Chairman of the Municipality. The private respondent, being the brother of the writ petitioner, also preferred a writ application, being WPA 5580 of 2016, praying for implementation of the earlier order dated 24 July, 2009. As the order passed by the Authority on 24 July, 2009 was challenged as well as sought to be implemented by way of two writ petitions brought by the petitioner as well as the private respondent herein, this Hon'ble Court considered both the writ petitions analogously. By order dated 16 December, 2024, this Hon'ble Court directed the Municipal Authority to make a fresh inspection of the holdings in question after serving notices well in advance to the petitioners of the respective writ petitions as well as upon all interested parties who were likely to be affected by the result of such inspection, and considered the entire issue in terms of Section 218 of the West Bengal Municipal Act, 1993 (Act of 1993). In compliance with the order dated 16 December, 2024, the Board of

Councilors of the concerned Municipality passed the order impugned herein. Challenging the said order, the writ petitioner has instituted this writ petition seeking cancellation of the order passed by the Board of Councilors, availing the provisions laid down in Section 218 of the Act of 1993, alleging that the order impugned suffers from illegality, irrationality, and perversity, and that there are grave infirmities in the order, for which the interference of this Court is called for instead of preferring an appeal.

3. Learned advocate for the petitioner further submits that no appropriate notice in terms of Section 218 of the Act of 1993 was served. No joint inspection was properly conducted, and no notice for hearing was served by the Board of Councilors in terms of Section 218 of the Act of 1993. Prior to the service of the inspection report, the hearing was conducted, and the impugned decision was passed. Learned advocate for the petitioner also submits that the order assailed in

the writ petition has not been properly communicated in toto, but only the operative part has been communicated by the Chairman of the concerned Municipality, indicating the date 5 March, 2026.

4. Learned advocate appearing on behalf of the private respondent no. 3 denied and disputes each and every allegation in the writ petition and further submits that her clients were served with the proper notices and, in terms of the notice, appeared before the hearing authority (Board of Councilors).

5. The learned advocate appearing on behalf of the concerned Municipality submits that the Chairman of the Municipality is the Head of the Municipal Authority as well as the Head of the Board of Councilors. The Board of Councilors duly conducted a hearing, and through the Chairman, proper notice was served. Despite service, the present writ petitioner did not turn up for the hearing. In compliance with the earlier order dated 16 December, 2024, a fresh

inspection was conducted upon notice to all necessary parties, suitable measurements were taken, and the entire inspection was conducted in the presence of all the parties. These reports are lying with the municipal records and were placed at the time of the hearing conducted by the Board of Councilors. He further submits that there is no legal infirmity or perversity in the order passed by the Board of Councilors. The factual dispute, whatever raised in the writ petition, is completely denied, as the relevant records have already been placed before this Hon'ble Court at the time of hearing. He further submits that there is a specific provision under Section 218(3) of the Act of 1993. Any order passed under Section 218 of the Act of 1993, the aggrieved party shall have the liberty to approach the competent civil Court. Thus, the instant writ petition is devoid of any merit and is liable to be dismissed.

6. After considering the rival contentions of the parties and after appreciating the record annexed to the writ petition

and the relevant records placed by the Municipality, this Court is of the opinion that the impugned order does not suffer from any legal infirmity or perversity. However, factual issues can only be decided after adducing evidence.

7. Section 218(3) of the Act of 1993 provides a statutory right, despite availing the same the petitioner enlarged his argument to contend that there were certain legal infirmities in the impugned notice and certain disputed questions of fact, as also indicated in the writ petition, and he placed emphasis on this aspect of his argument. Section 218(3) of the Act speaks as follows:

> *"An appeal against an order made by the Board of Councilors in this behalf shall lie with the Court having jurisdiction."*

The introduction of Section 218 (3) of the West Bengal Municipality Act, 1993 was done only with the legislative intent that an administrative action which is punitive (civil) in nature must be tried by a competent civil court only after the

appreciation of the evidence, prior to execution. Time and again, the Hon'ble Supreme Court has deprecated the practice of entertaining writ petitions where serious disputes of fact and complexity are involved. In view of the disputed questions of fact raised in this matter, this Court is of the opinion that such disputes can be resolved before the competent Civil Court.

8. The Hon'ble Supreme Court in ***Radha Krishan Industries v. State of H.P.*****, reported in (2021) 6 SCC 771** observed that An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained unless there is perversity and infirmity in the order.
9. Thus, the instant writ petition stands dismissed without any order as to costs.
10. The writ petitioner will have the liberty to file an application seeking a

copy of the resolution if he applies before the Municipal Authority within a period of seven days from the date of this order; the authority will supply the same within a period of three days thereafter.

11. However, it is made clear that if the writ petitioner approaches the competent Civil Court within four weeks from the date of this order, assailing the order dated 27 February, 2026, the Civil Court will have the liberty to consider the same without being influenced by this Court's order and observation.

12. Parties to act on the basis of the server copy of this order.

13. An urgent certified photostat server copy of this order shall be supplied to the parties upon compliance with all necessary formalities.

**(Atarup Banerjee, J.)**