

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

**WPA 15716 of 2025
Debanan Bachar
Versus
The State of West Bengal & Ors.**

With

**WPA 13345 of 2025
Rekha Mukherjee & Anr.
Versus
The State of West Bengal & Ors.**

For the petitioner in WPA 15716 of 2025 and the respondent no.7 in WPA 13345 of 2025.	:	Mr. Biswajib Ghosh Mr. Sumitava Chakraborty Ms. Bratari Pramanick
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For the petitioners in WPA 13345 : of 2025 and the respondent nos.7 & 8 in WPA 5716 of 2025.	:	Mr. Kallol Guha Thakurta Mr. Md. Wasim Rahaman Mr. Dipankar Dutta
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For the State in both the writ petitions.	:	Mr. Debjit Mukherjee Mr. Shibasish Banerjee
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For the respondent nos. 2 to 5 in both the writ petitions.	:	Mr. Tapas Kumar Ghosh Mr. Tanmoy Chowdhury
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Heard on	:	20.01.2026.
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Judgment on	:	20.01.2026
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Raja Basu Chowdhury, J (Oral):

1. Pursuant to the order dated 5th January, 2026, the Chairman, Hooghly-Chinsurah Municipality is personally present in Court with the entire records of this case and an affidavit, explaining failure for

not having previously complied with the direction of this Court as regards filing of report has been filed.

2. The report in the form of affidavit filed by the respondent nos. 2 to 5 in Court today is taken on record.
3. Though the explanation provided by the respondent no.3 does not appear to be adequate in so far as the failure on the part of the municipality to comply with the directives issued by this Court from time to time including the failure to file the report as directed earlier, however, taking note of the fact that the Chairman has personally undertaken before this Court that the direction issued by this Court shall be complied with as and when directed, and the above conduct shall not be repeated in future, the matter against the municipality for having not adhered to the directions passed by this Court is not proceeded further and the personal appearance of the Chairman stands dispensed with.
4. The writ petition, being WPA 15716 of 2025 has been filed for enforcement of the order dated 19th May, 2025 passed by the Board of Councillors of Hooghly-Chinsurah Municipality. The writ petition, being WPA 13345 of 2025 has been filed challenging the above order dated 19th May, 2025 on the ground noted in the writ petition.
5. By consent of the parties, both the writ petitions are taken up for final consideration together.
6. Upon going through the records of the proceedings and the order impugned it may be noted that the Assistant Engineer of the

municipality had conducted an inspection at the locale i.e. holding no.2 Kapasdanga, New G.S. Colony, Hooghly, PIN 712103, on 18th February, 2025 after service of notice dated 11th February, 2025, to ascertain whether any unauthorized construction has been carried out by Rekha Mukherjee and Avijit Mukherjee at the said premises. During inspection both Rekha Mukherjee and Debanan Bachar were present at the site. The inspection report dated 19th February, 2025 also records that a previous sanctioned plan was issued to Rekha Mukherjee and Avijit Mukherjee vide no. B/277 (04-05). Report would also reveal another building plan being B/352 (19-20) was issued on 16th March, 2020. The report further records that during inspection it was found that Rekha Mukherjee and Avijit Mukherjee have deviated from their latest sanctioned building plan and extended their construction beyond the sanctioned limit as per the latest sanctioned building plan B/352 (19-20). The deviated portions have been noted in the said report. Based on the above report and upon giving an opportunity of hearing to the parties the order impugned was passed.

7. Mr. Guha Thakurta, learned advocate representing the petitioner in WPA 13345 of 2025 has placed reliance on the sanction fees being deposited by the petitioners with the municipal authorities and would submit that upon realization of the amount of Rs.12200/- and 1100/- the municipal authorities have regularized the extent of

illegal construction. Accordingly, the order impugned is bad and cannot be sustained and should be set aside.

8. Mr. Chowdhury, learned advocate representing the municipality on the other hand would submit that this is not a case of regularization. The municipality has only issued a sanctioned building plan upon realization of fees from the petitioners in WPA 13345 of 2025.
9. Mr. Ghosh, learned advocate representing the petitioner in WPA 15716 of 2025 and the private respondent no. 7 in WPA 13345 of 2025 would submit that the entire construction is illegal. Initially without obtaining any sanctioned building plan the premises in question was constructed. Later, the municipality has issued a sanctioned building plan in respect of the property in question. The petitioners in WPA 13345 of 2025 have gone beyond the subsequent sanctioned building plan and caused additional construction. It is the additional construction which has been directed to be demolished by the municipality vide its order dated 19th May, 2025.
10. Having heard the learned advocates appearing for the respective parties and considering the materials on record I find that though there is a reference of earlier building plan, the municipality had not proceeded to pass the demolition order based on the earlier building plan. Such building plan has not been produced either by the municipality or by the parties. In fact, the building plan being B/277 of (04-05) has not seen the light of the day. The municipal

authorities have, however, proceeded to determine the extent of deviation based on the subsequent building plan issued in the year 2020, being building plan B/352 (19-20). It is an admitted position that the municipal authorities have noted deviations which are based on such inspection report. The same are with reference to the latest sanctioned plan. Following the above the demolition order has been passed by the Board of Councillors and has been communicated to the parties through the Chairman vide communication dated 19th May, 2025. There is no jurisdictional error apparent on the face of the order passed by the municipality. Although Mr. Guha Thakurta has attempted to make out a case that the municipality has accepted regularization fees, no document has been placed before this Court to demonstrate any regularization fees has been accepted. Rather, the municipality has proceeded on the basis of the available documents and the subsequent sanctioned building permit no. B/352(19-20). On such ground I do not find any illegality in the order. The petitioners in WPA 13345 of 2025 failed to demonstrate that the order suffers from any perversity. It is true, that the petitioners in WPA 13345 of 2025 have chosen not to challenge the said order by preferring an appeal. In my view if the petitioners have exercised their choice and proceeded to challenge the same before this Court by invoking the power under Article 226 of the Constitution of India without availing the statutory remedy of appeal, this Court cannot be

converted to an appellate forum. This Court while deciding the cause by exercising the powers of judicial enquiry can only consider whether there has been violation of principle of natural justice or whether the order suffers from any procedural irregularity and or perversity. It is not open to this Court to reappreciate evidence. It is well settled that this Court cannot enter into the factual issue while deciding a petition of this nature. In the light of the above observations this Court does not entertain the writ petition and the same, being WPA 13345 of 2025 is accordingly dismissed.

11. Insofar as WPA 15716 of 2025 is concerned, I am of the view having regard to the dismissal of the writ petition, being WPA 13345 of 2025 and there being no impediment now on the municipality to execute the said order, the municipal authorities may proceed in accordance with law. The writ petition, being WPA 15716 of 2025 stands disposed of accordingly.
12. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

**SB
A.R. (Court)**