

13. 28.01.2026.
Court No.03.

(Pritam)

WPA 28659 of 2025.
With
CAN 1 of 2026
Abichal Chattopadhyay.
-Vs.-

Howrah Municipal Corporation & Ors.

Mr. D. Saha Roy, Sr. Adv.,
Mr. Sagar Bandyopadhyay, Sr. Adv.,
Mr. Bishnupada Dutta,
Mr. Falguni Bandyopadhyay,
Mr. Saumyen Datta,
Mr. Achin Jana,
Mr. Prosenjit Ghosh,
Ms. Chetna Rustagi,
Mr. D. Kumar.

.....for the petitioner.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka.

.....for the HMC.

Mr. Dev Kumar Sharma,
Mr. Niraj Kumar Singh,
Mr. Satya Prakash Shaw,
Ms. Soniya Yasmeen.

.....for the private respondent nos.10 & 11.

1. Supplementary affidavit filed by the petitioner in Court today is taken on record.
2. Citing extreme urgency, the matter was mentioned on 23rd December, 2025. This Court, accordingly, had passed the following order;

*“1. Affidavit of service filed in Court is taken on record.
2. Citing extreme urgency, the matter was mentioned in the morning and accordingly, the matter is taken up for consideration out of turn.
3. Complaining illegal construction at premises No. 19/2, Rash Behari Ghosal Lane, Post Office Salkia, Police Station Malipanchghora, District Howrah, the present writ petition has been filed. According to the petitioner, the*

construction that is coming up on the petitioner's adjacent property though has a sanctioned plan, the same is being constructed in deviation of such plan. The statutory side open space that is required to be maintained has not been maintained in this case. Though the sanction is for a G+2 storied building, the construction has exceeded the same and at present, a three storied structure is standing thereon.

4. Mr. Bandhyaypadhyay, learned Senior Advocate representing the petitioner would submit that unless immediate steps are taken to arrest the illegal construction, the petitioner shall suffer irreparable loss and injury.

5. Mr. Banerjee, learned Advocate appears for the Municipality and prays for an accommodation to take appropriate instruction in this matter.

6. Having heard the learned Counsel appearing for the respective parties, and considering the case made out and peculiar facts of the case, I am of the view that at this stage, the Municipal authority should at least carry out an inspection of the premises in question on expeditious basis upon prior notice to the interested parties including the petitioner and file a report before this Court when the matter is taken up next. Though the petitioner may be intimated, the petitioner may not be invited for the inspection, though the report thereof may be supplied.

7. Needless to note that if the Municipal authorities note any illegal construction or violation of the provisions, appropriate steps shall be taken in accordance with law without waiting for further directions of this Court.

8. List this matter for further consideration on 28th January, 2026."

3. Today, the Howrah Municipal Corporation (HMC) has filed a revised status report dated 20th January, 2026. From the status report, it would transpire that although a plan was sanctioned for construction of a G+2 storied building at premises No.19/2, Ras Behari Ghosal Lane, Post Office- Salkia, Police Station- Malipanchghora, Howrah-711106, however, the HMC has ascertained on the basis of an inspection carried out pursuant to the order dated 23rd December, 2025

that the person responsible had deviated, on both horizontal as also on vertical direction.

4. The above report identifies the extent of deviation. To morefully appreciated the same, the relevant report dated 20th January, 2026 is extracted hereinbelow:



HOWRAH MUNICIPAL CORPORATION

BOROUGH COMMITTEE- I

28, Sri Arabindo Road, Salkia, Howrah- 711 106

Mail ID: borough1hmc@gmail.com

No.0601 /A.E/B-1/25-26

Date: 20/01/26

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STATUS REPORT (REVISED)

Re : Construction of a three (G+2) storied Building being made deviating from sanction plan (G+2)

Ref : Holding No: 19/2, Rash Behari Ghosal Lane, P.O- Salkia, P.S- Malipanchghara, Howrah-711106

HMC Ward No : 03, Borough-I

Name of Owners: Ramesh Das and Piyali Das

Sanction Plan No: SWS-OBPAS/1902/2025/0236

HMC Unauthorised Case No: BMR- 035/B-I/25-26

High Court Case No: W.P.A- 28659 of 2025

ABICHAL CHATTOPADHYAY

VS

HOWRAH MUNICIPAL CORPORATION & OTHERS

• This is a case of a three (G+2) storied building, being made deviating from sanction plan (Mentioned Above).

• To stop such Construction a stop work notice U/S 177(1) of HMC ACT 1980 was served upon the owners on 18/12/2025.

• A Show cause notice dated 19/12/2025 with a chance of hearing dated 30/12/2025 was issued to the owners and the owners had admitted (during hearing) that some deviations (horizontal & vertical) had been done at the said building.

• As per Order of the Hon'ble High Court at Calcutta dated 23/12/2025 an inspection of the site, in question , has been carried out on 14/01/2026. During inspection it has been detected that some deviations on both horizontal and vertical directions have been done at the said three (G+2) storied building in question.

• A Self demolition notice has been served upon the owners on 14.01.2026.

• Internal works are being done at present.

• Measurements of deviation construction are given below in a tabular form:

MESUREMENT TABLE

(A) HORIZONTAL

SL NO	OPEN SPACE	AS PER PLAN		AS PER SITE		Deviation
		Mium	Maxm	Mium	Maxm	
1	FRONT (WEST)	0.760 M	0.760 M	0.150 M	0.530 M	0.610 M-----0.230 M
2	SIDE I (NORTH)	0.900 M	1.072 M	0.800 M	1.070 M	0.100 M ---- 0.002 M
3	SIDE II (SOUTH)	1.210 M	1.210 M	1.100 M	1.200 M	0.110 M-----0.010 M
4	REAR (EAST)	2.500 M	3.104 M	1.340 M	2.700 M	1.160 M ----- 0.404 M

(B) VERTICAL

SL NO	VERTICAL HEIGH	AS PER PLAN	AS PER SITE	Deviation
1	P.L	0.600 M	1.000 M	0.400 M
2	GROUND FLOOR	3.140 M	3.400 M	0.260 M
3	1 ST FLOOR	3.130 M	3.400 M	0.270 M
4	2 ND FLOOR	3.130 M	3.350 M	0.220 M
5	STAIR HEAD ROOM	2.400 M	3.200 M	0.800

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SL NO	FLOOR	SANCTIONED	AS MADE	Deviation
1	GROUND FLOOR	68.584 M ²	93.961 M ²	25.377 M ²
2	1 st FLOOR	80.628 M ²	89.542 M ²	8.914 M ²
3	2 nd FLOOR	80.628 M ²	89.542 M ²	8.914 M ²
4	STAIR HEAD ROOM	15.991 M ²	32.421 M ²	16.430 M ²
TOTAL		245.831 M ²	305.466 M ²	59.635 M ²

28/01/26

Assistant Engineer,
Borough Committee- I
Howrah Municipal Corporation

No. ~~AE~~(I)/A.E/B-1/25-26

Date: 28/01/26

Copy forwarded for information & necessary action

1. Ramesh Das & Piyali Das
65/16, shovan chowdhury lane , Salkia, Howrah - 711106
.....Private Respondent

2. Dr. Abichal Chattopadhyay
10, Rash Behari Ghosal Lane, Salkia, Howrah _ 711106
..... Petitioner.

3. Commissioner H.M.C.

4. Dy. Commissioner H.M.C.

5. EE, Building, HMC

6. OSD Law, Demolation, HMC

7. OSD LAW, HMC

8. AE (S.A.E. in charge) Boro-I, HMC.

9. Office Copy

28/01/26

Assistant Engineer,
Borough Committee- I
Howrah Municipal Corporation

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5. The report reveals that not only a stop work notice dated 18th December, 2025 has been issued, pursuant to a show-cause dated 19th December, 2025, a hearing was held on 30th December, 2025 and a self-demolition notice has been issued and served on 14th January, 2026.
6. Mr. Sharma, learned advocate appears for the private respondent nos.10 & 11, would submit that though there may be some deviations horizontally, however, there is no deviation insofar as height of the building is concerned. While responding to a query of the Court,

he would submit that there is a minor deviation in constructing the stair head room.

7. Having heard the learned advocates for the respective parties and having considered the materials on record, including the demolition order dated 14th January, 2026, I find that no particulars of the deviated portions required to be demolished have been identified in the order passed by the HMC. As such the above order which is without any particulars cannot be acted upon.
8. Having regard thereto, I direct the HMC to afford an opportunity of hearing to the petitioner in accordance with the provisions of Section 177(1) of the HMC Act, 1980 read with Rules adopted by the HMC and to decide on the extent of illegal construction by the person responsible and to bring the proceedings as aforesaid to a logical conclusion.
9. Considering the prima facie case made out and noting that there has been a serious deviation all around the constructed area, including the construction of a stair head room wherein the deviation exceeds 16.430 sq.mtrs., I am of the view that the HMC should not permit the building in question to be occupied by any party till disposal of the proceedings.
10. The private respondents are restrain from inducting any third party and/or creating any third party interest therein and/or to encumber the same in any manner whatsoever till disposal of the proceedings

by the municipality and the proceedings shall be completed as expeditiously as possible preferably within a period of 8 weeks from the date of communication of this order.

11. The above injunction has been passed to avoid multiplicity of proceedings and/or creation of third party interest by way of induction of any party in the deviated portions.

12. However, taking into consideration the peculiar facts as noted hereinabove, the HMC shall ensure that no construction shall taken place in the premises in question till disposal of the above proceedings.

13. With the aforesaid observations and directions, the instant writ petitioner along with the connected application is disposed of without any order as to costs.

All parties shall act on the basis of server copy of this order duly downloaded from the official website of this Hon'ble Court.

(Raja Basu Chowdhury, J.)