

19.03.2026

Ct. No. 5
Sl. No.18
akd

In The High Court at Calcutta
Circuit Bench at Jalpaiguri

W. P. A. 418 of 2026

[Shailesh Kumar Jha -Vs- Siliguri Municipal Corporation & Ors.]

Mr. Kunaljeet Bhattacharya

Mr. Janardan Periwal

... .. for the petitioner

Mr. Bijay Bikram Das

... for respondent nos.1 to 3
[Siliguri Municipal Corporation]

Mr. Arjun Ray Mukherjee

... for respondent nos.5 & 6
[Siliguri Jalpaiguri Development Authority]

Mr. Subham Ghosh

Mr. Mayank Roy

... for respondent nos.7 & 8

1. Affidavit-of-service filed in court today is taken on record.

2. The petitioner in the present writ petition has challenged the order dated 27.02.2026 passed by the Commissioner, Siliguri Municipal Corporation, who has declined to grant permission to the petitioner to run a restaurant-cum-bar under the name and style of 'Town Club Restaurant-cum-Bar' from the third floor of an existing four-storied building situated at Hill Cart Road, near Sevoke More, Siliguri. The said refusal is primarily on the ground that no sanctioned building plan is available with the petitioner and therefore, the municipal authority is unable to ascertain whether the building is commercial or residential in nature. The petitioner is also directed to stop all ongoing construction/renovation activities in the said premises. The

order further records that the Commissioner is unaware whether the designated place has been constructed as residential or commercial since the petitioner was unable to provide any definite answer.

3. Learned Advocate for the respondent-Siliguri Municipal Corporation submits that due to insufficient information and in the absence of the sanctioned building plan with the petitioner, the said impugned order had been passed. He further submits that the aspect as to whether any commercial activities can be carried on at the site in question can also be ascertained from the sanctioned building plan.

4. Learned Advocate for the petitioner has drawn the attention of this court to the fact that the petitioner is a lessee and that the landlord had lost the said sanctioned building plan for which a General Diary has already been lodged by the landlord before the concerned police station.

5. Heard the learned Advocates for the respective parties and perused the materials placed on record.

6. This Court is constrained to observe that the Commissioner, Siliguri Municipal Corporation, being the statutory custodian of all sanctioned building plans, has proceeded to pass the impugned order without undertaking any enquiry whatsoever as to the availability of the relevant sanctioned plan in the official records. Despite the Corporation being the competent authority for sanctioning and maintaining building plans, no effort appears to have been made by the Commissioner to trace or verify the same. Instead, the impugned order proceeds on an assumption

while addressing the issue as to whether the Petitioner is entitled to carry on commercial activity from the said premises.

7. It is evident from the materials on record that a building plan bearing No. 10419 dated 15.10.2021 had, in fact, been duly sanctioned by the Siliguri Municipal Corporation. However, the impugned order is conspicuously silent as to any steps taken by the Commissioner to verify this admitted position from the official records.

8. It is further noted that the Corporation, being the statutory authority vested with the power to determine and regulate land use, including classification of areas as residential or commercial in accordance with the applicable layout plan, has failed to discharge its obligation in this regard. On the contrary, the Commissioner has recorded that in the absence of the building plan, it is not possible to ascertain whether the premises can be used for commercial purposes. Such reasoning reflects a clear non-application of mind. The Commissioner has erroneously shifted the burden upon the Petitioner to produce the sanctioned plan and to establish the permissible use of the building, which is a matter squarely within the domain and records of the Corporation itself.

9. In view of the aforesaid, this Court is satisfied that the impugned order dated 27.02.2026 passed by the Commissioner, Siliguri Municipal Corporation suffers from patent illegality and non-application of mind, and the same is accordingly set aside.

10. The Commissioner, Siliguri Municipal Corporation is directed to pass a fresh order in terms of the order dated 16.12.2025 passed in writ petition being WPA 2437 of 2025 within a period of twelve weeks from the date of communication of this order wherein the observations of this Court shall be kept in mind.

11. With the aforesaid directions, the present writ petition is disposed of.

12. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

13. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)