

Form J(2)
Sl.No.9
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In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 1515 OF 2024

Lipi Biswas

Vs.

Siliguri Municipal Corporation & Ors.

For the petitioner : Mr. Kumar Shantanu, Adv.
Ms. Nikita Paul, Adv.
Mr. Taiab Sahadat, Adv.
Mr. Parthib Bhowmick, Adv.

For the Respondents : Mr. Deborshi Dhar, Adv.
Ms. Tania Bhowmick, Adv.

Heard on : May 15, 2026

Judgment on : May 15, 2026

[In Court]

Aniruddha Roy, J. :

1. Mr. Kumar Shantanu, learned Advocate appears for the petitioner.

2. Mr. Deborshi Dhar, learned Advocate with Ms. Tania Bhowmick, learned Advocate appears for the respondents.

Facts :

3. This writ petition pertains to an alleged illegal construction in respect of premises within the territorial jurisdiction of the respondent no.1.
4. The matter has a chequered history of litigations.

Submissions :

5. Learned Advocate appearing for the petitioner submits that, this is the second round of writ petition. The record shows from time to time pursuant to the direction of the Court reports have been filed by the municipal corporation to which exceptions have been taken and the petitioner has filed exceptions thereto.
6. Mr. Kumar Shantanu, learned Advocate appearing for the petitioner submits, on previous occasions a portion of the premises having been found illegally constructed has already been demolished. The existing structure is now in question.
7. Mr. Shantanu, learned Advocate appearing for the petitioner referring to the reports, filed on behalf of the municipal corporation, submits the reports are repetative containing the identical observations and contentions. He further submits that if necessary, the petitioner can submit a revised building plan for construction since the earlier building plan has expired.

Decision :

8. After considering the submission made on behalf of the parties and on perusal of the materials on record, it appears to this Court that, there is no requirement for passing any direction insofar as the demolished portion, if any, of the premises is concerned.
9. In view of the above, following directions are passed :
 - i) The respondent no.3 and/or upon his proper delegation the jurisdictional Executive Engineer of the respondent no.1 upon issuing a **prior** hearing notice of at least **seven days** to the petitioner shall cause an inspection at the site.
 - ii) The inspection shall be carried out in presence of the petitioner in the light of the building plan on the basis whereof the original construction was made. If it is found that, a portion of the premises has already been demolished having found to be illegally constructed then, the inspection will be conducted on the basis of the existing structure at the premises and if not on the entire existing structure;
 - iii) During the time of inspection a detailed minute shall be drawn up which shall be signed by the respondent no.3 and/or its delegatee and the petitioner. A copy of the detailed report of the inspection along with a copy of the said minute shall be made over to the petitioner positively within a period of **three working days** from the date of the inspection to be held.

- iv) In course of the inspection if any portion of the premises is found to be illegally constructed beyond and *de hors* the relevant sanctioned plan then, the respondent no.3 first consider whether such an alleged illegal construction and/or deviation is regularisable or can be regularized strictly in accordance with law;
- v) In the event, any portion of the premises is found to be regularisable in accordance with law in the light of the sanctioned plan then, the respondent no.3 shall take steps and consequential steps to regularize the same.
- vi) If any portion of the premises or in its entirety of the existing structure is found that, the same cannot be regularized and is not regularisable strictly in accordance with law, the respondent no.3 upon issuing a **prior** hearing notice of clear **three days** to the petitioner shall give an opportunity of hearing to the petitioner and then shall pass its reasoned order for demolition and/or removal of such alleged illegally constructed structure in accordance with law.
- vii) The hearing shall be held positively within **one week** from the date of serving the hearing notice and then the reasoned order shall be passed positively within a period of **one week** from the date of such hearing shall be taken place. The reasoned order

then shall be communicated to the petitioner within the said period of **seven days**.

- viii) After the reasoned order is passed and if the respondent no.3 arrives at a finding that, the existing structure or any portion of it cannot be regularized strictly in accordance with law then, the respondent no.3 shall take necessary and consequential steps for removal of the same and demolish the same but positively within a period of **three weeks** from the date of the said reasoned order to be passed.
- 10. In the event, respondent no.3 requires any police assistance during the removal of illegal structure, if situation so arises, then it shall be free to take police assistance from the jurisdictional local police authority and the local police authority shall render all necessary assistance to the respondent no.3.
- 11. However, it is also made clear that, the petitioner shall be at liberty to submit a revised building plan in accordance with law but the above procedure for ascertaining illegal construction, if any, and resultantly the demolition thereof shall not wait on the ground of submission of revised building plan by the petitioner.
- 12. The exercise, directed to be carried out herein, shall be an independent one, irrespective of the exercise which has already been carried out and the result of this exercise, as directed herein, shall be final.

13. With the above observations and directions, the writ petition, **WPA 1515 of 2024** stands **disposed of**, without any order as to costs.
14. Parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)