

23.03.2026
Ct. No. 5
Sl. No.2
akd

In The High Court at Calcutta
Circuit Bench at Jalpaiguri

W. P. A. 2384 of 2025

[Smt. Urmila Devi Sahani -Vs- The State of West Bengal & Ors.]

Mr. Sandip Mandal
Mr. Amit Saha
Ms. Poonam Kaur
... .. for the petitioner

Mr. Ajay Singhal
Ms. Chiroshhre Dey
Ms. Prerna Khaitan
... .. for respondent no. 7

Mr. Bijoy Bikram Das
Mr. Deborshi Dhar
... for respondent nos.2 to 6
[Siliguri Municipal Corporation]

1. Affidavit-of-service filed in Court today is taken on record.
2. The petitioner has preferred the present writ petition challenging the demolition order dated 24.07.2025 passed by the Commissioner, Siliguri Municipal Corporation under Section 287 of the West Bengal Municipal Corporation Act, 2006 read with Rule 32 of the West Bengal Municipal (Building) Rules, 2007.
3. Learned Advocate for the petitioner submits that the petitioner had acquired physical possession of the temporary structure measuring about 13 ft. x 15 ft. with C.I. sheet roofing bearing Holding No. 296/254/590/112 situated at Ward No. 5 of the Siliguri Municipal Corporation from one Sri Bhagwan Pandey by virtue of a written agreement dated 27.06.2000 upon payment of a valuable consideration. It is

further submitted that the area in question, popularly known as '*Santoshi Nagar*' comprises a large number of constructions, both residential and commercial, allegedly constructed over vested land and that more than one lakh structures exist therein.

4. According to the petitioner, owing to the nature of the land, the Siliguri Municipal Corporation has not been in a position to sanction building plans in respect thereof. It is contended that despite such position, the petitioner and other similarly situated occupants have been paying municipal taxes and successive Governments from time to time have assured regularization of such constructions though no formal policy decision has been implemented.

5. Learned Advocate for the petitioner further submits that the petitioner has raised a two-storied structure, each floor comprising of one room measuring approximately 10 ft. x 15 ft. and had been using the ground floor for commercial purposes under a trade licence issued by the Siliguri Municipal Corporation in the name of '*Rajen General Stores*' while the upper floor is used for residential purposes. Learned Advocate also submits that the proceedings were initiated at the instance of the respondent no.7, a neighbouring occupant, who due to personal animosity allegedly demanded an illegal gratification of Rs.10,00,000/- from the petitioner. Upon refusal by the petitioner, the respondent no.7 lodged a complaint before the Corporation alleging unauthorized construction and also approached this Court by filing a writ petition being WPA 735 of 2025 (*Shri Jitendra Kumar vs. Siliguri Municipal Corporation & Ors.*)

6. This Court vide order dated 30.04.2025 passed in the said writ petition directed the Commissioner, Siliguri Municipal Corporation to consider and dispose of the representation of the respondent no.7 upon affording an opportunity of hearing to the affected parties and upon conducting a proper inspection of the premises.

7. Pursuant thereto, an inspection was conducted on 23.05.2025. Thereafter, notice dated 11.07.2025 was issued to the petitioner and a personal hearing was granted on 23.07.2025. Upon consideration of the materials on record and the inspection report, the Commissioner, Siliguri Municipal Corporation passed the impugned demolition order dated 24.07.2025.

8. Upon perusal of the impugned order and the records placed before this Court, it is evident that the authority has acted in due compliance with the directions issued by this Court in WPA 735 of 2025. The petitioner was duly put on notice, afforded a reasonable opportunity of hearing and the decision was preceded by a physical inspection of the site.

9. The inspection report clearly records that a two-storied structure has been erected on the subject premises without obtaining any sanctioned building plan from the competent authority. Significantly, the petitioner has not been able to produce any sanctioned building plan or statutory permission in support of the construction. On the contrary, the existence of such unauthorized construction was not seriously disputed by the petitioner during the hearing before the authority concerned.

10. The principal contention advanced by the petitioner is that similar constructions exist in the locality without any sanctioned building plan and the authorities have not taken any action against any other property.

11. This cannot be accepted as a valid defence in law. It is well settled that Article 14 of the Constitution of India does not envisage negative equality and illegality or irregularity in favour of one person cannot be relied upon to perpetuate a similar illegality in favour of the petitioner.

12. The further contention regarding payment of municipal taxes or holding of a trade licence also does not in any manner legitimize an unauthorized construction raised in violation of the statutory provisions. Such acts, at the best, indicate permissive user for a limited purpose and cannot be constituted as conferring any legal right to retain an unauthorized or illegal structure in absence of a sanctioned building plan. In so far as the plea relating to regularisation is concerned, the same remains in the realm of policy of the Government.

13. Learned Advocate for the Siliguri Municipal Corporation submits that the respondent no.7, who happens to be the neighbour of the petitioner, also has a structure existing on his plot of land.

14. This Court directs the Commissioner, Siliguri Municipal Corporation to conduct an on-spot inspection regarding the existence of the said structure. In the absence of a duly sanctioned building plan, the Corporation authorities shall take appropriate action in accordance with law, after giving an opportunity of hearing to the respondent

no.7. A valid and speaking order shall also be passed. Since the respondent no.7 has approached this Court and in case he does not have a valid sanctioned building plan, the Siliguri Municipal Corporation authorities shall act in accordance with law.

15. In view of the aforesaid facts and circumstances, this Court is of the considered opinion that the impugned order had been passed after due compliance of the principles of natural justice based on objective materials and in accordance with the statutory provisions governing the field and no arbitrariness, procedural irregularity or jurisdictional error can be demonstrated so as to warrant any interference, in so far as the impugned order is concerned.

16. Accordingly, the present writ petition is dismissed.

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

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

(Gaurang Kanth, J.)