

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18953 of 2025

with
CAN 1 of 2026

Smt. Sumitra Sett
Versus
The State of West Bengal & Ors.

Mr. Kallol Basu,
Mr. Atreya Chakraborty
... for the petitioner

Mr. Ansar Mandal, AGP,
Ms. Somashree Dey
....for the State

Mr. Arijit Dey
... for Baranagar Municipality.

Mr. Ajeyo Chowdhury
....for the respondent nos.5 and 6.

Mr. Ayan Banerjee,
Mr. Dhiman Banerjee
....for the respondent no.7.

1. Challenging the decision of the Board of Councilors in its meeting dated 26th May, 2025 which was communicated to the petitioner by cover of a letter dated 12th June, 2025, the instant writ petition has been filed. The matter has a chequered history.
2. Previously, a writ petition, being WPA 24485 of 2023, was filed before this Court complaining that the respondent nos.5, 6 and 7 have carried out an illegal construction at premises no.51,

Moiradanga Road, Ward No.26, Kolkata – 700036.

The said writ petition was disposed of by an order dated 25th November, 2024 by noting that the respondent nos.5, 6 and 7 have obtained a sanctioned plan from Baranagar Municipality to raise a G+3 storied building at the above premises and accordingly, the representation made by the petitioner as regards the unauthorized construction was directed to be disposed of by Baranagar Municipality by hearing the parties.

3. Pursuant to the aforesaid order, the Municipality had carried out spot inspection of the alleged unauthorized construction at the above premises and on the basis thereof the decision of the Board of Councilors dated 26th May, 2025 recorded therein as 9th January, 2025, was communicated to the petitioner vide letter dated 12th June, 2025.
4. Noting that the above order was passed without considering the representation made by the petitioner and without appropriately providing opportunity of hearing, this Court had called for the records.
5. Learned advocate for the municipality has today placed the records of the case and would submit that on 8th January, 2025 an inspection was conducted at the locale. According to him, though the petitioner was present during inspection, she

did not sign on the attendance sheet, and such fact is noted in the inspection report dated 8th January, 2025. While responding to a query of this Court he submits, from the records it does not appear that the aforesaid report was communicated to the petitioner.

6. Since the private respondents are represented, this Court had enquired from the learned advocates representing the private respondents whether the inspection report dated 8th January, 2025 had been supplied to them.
7. Mr. Banerjee, learned advocate representing the respondent no.7 and Mr. Chowdhury, learned advocate representing the respondent nos.5 and 6 would submit that they were also not favoured with the aforesaid inspection report.
8. Having heard the learned advocates appearing for the respective parties and noting that the aforesaid inspection report forms the basis of the decision of the municipality, and though in very many words the petitioner has not stated that she did not receive the report, however, noting the materials on record and considering the submissions of the parties since it appears that the municipality did not serve the above report, though at the same time, accepting the findings recorded in the report as regards the failure of the

petitioner to sign the attendance sheet, I am of the view that it was elementary for the municipality to serve the aforesaid inspection report to the contesting parties and to seek for a response from them prior to taking a decision in the matter.

9. This apart, there appears to be another anomaly in the communication dated 12th June, 2025. Although the communication dated 12th June, 2025 records that the Board of Councilors meeting was held on 9th January, 2025, the extract of the resolution of the Board of Councilors is dated 26th May, 2025.
10. In the backdrop as aforesaid, I am of the view that the aforesaid decision of the municipality cannot be sustained. The same is accordingly set aside from the stage when the inspection report was considered without affording opportunity to the parties to respond to the same.
11. Since, the parties have already been circulated with the copies of the inspection report, the parties shall be at liberty to respond to the same whereupon the municipality shall be at liberty to conclude the hearing and take a decision in accordance with law.
12. The writ petition and the connected application stand disposed of accordingly.

13. Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)