

OD-3 & 4

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO(P)/1/2024
IA No.GA/2/2024, GA/3/2024
SK. MAHBUB HOSSAIN
VS.
THE STATE OF WEST BENGAL & ORS.

WITH

WPO/955/2024
MD. FAKHRE ALAM
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE:
THE HON'BLE THE CHIEF JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE JUSTICE BIVAS PATTANAYAK
Date: 4th October, 2024.

Mr. Mainak Bose, Mr. Ratul Das, Ms. Anjusri Mukherjee,
Advocates for the petitioner in WPO(P)/1/2024.

Mr. Amitesh Banerjee, Sr. Standing Counsel, Mr. Sirsanya Bandhopadhyay, Jr.
Standing Counsel, Mr. Arindam Mondal, Mr. Debangshu Dinda,
Advocates for the State.

Mr. Alak Kr. Ghosh, Mr. Arijit Dey, Advocates for K.M.C.

Mr. Sukanta Chakraborty, Mr. Tirthapati Acharyya,
Advocates for respondent no.2.

Sk. Md. Galib, Mr. Abu Siddique Mallik, Advocates for Board of Waqf.

Mr. Ranajit Chatterjee, Mr. Subhrangsu Panda, Mr. Aniruddha Mitra, Advocates
for writ petitioner in WPO/955/2024.

Mr. Somnath Bose, Advocate for CESC.

Mr. Dipak Kr. Mookerjee, Ms. Monalisa Dhar, Advocates.

The Court : There are two prayers sought for in the writ petition. The first one is to direct the respondent State to appoint members of the Municipal Building Tribunal in terms of the order passed by the Hon'ble Supreme Court dated 17th September, 2024 in Special Leave to Appeal(C) No.12834 of 2024. The second prayer is to direct the Municipal Building Tribunal to hear the statutory appeal filed by the petitioner within a stipulated timeframe.

So far as the first prayer is concerned, the learned Government Counsel has filed a report in a collateral proceeding that the Tribunal has become functional. It has a Chairman, a Judicial Member and the Technical Member. The said report which was filed in the other matter has been taken on record. Therefore, the first prayer sought for by the writ petitioner stands satisfied.

So far as the second prayer is concerned, it is submitted by the learned Counsel for the writ petitioner that the statutory appeal is pending before the Municipal Building Tribunal.

If that be so, the Municipal Building Tribunal is requested to give an early date for hearing, hear the parties and pass appropriate order on merits in accordance with law.

The writ petition being WPO/955/2024 stands disposed of.

In terms of the earlier order unauthorised constructions were to be demolished. The Hon'ble Supreme Court has issued such a direction in the matter. The grievance of the learned Advocate appearing for the petitioner is that despite order, no demolition has taken place, on the contrary construction is going on in respect of the premises no.147/H/25, Keshab Chandra Sen Street, Kolkata.-09

Learned Advocate for the KMC as well as the State Police are to ensure to stop further construction in the matter and comply with the direction issued by this Court in the earlier order as well as by the Hon'ble Supreme Court.

List this matter one week after the Puja Vacation.

(T. S. SIVAGNANAM, C.J.)

(BIVAS PATTANAYAK, J.)