

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

WPA/55/2025

Shri G. Ganesh

Vs.

The Chief Secretary & Anr.

Mr. K.M.B.Jayapal	... for the petitioner
Ms. Babita Das	... for the respondent No.1
Mr. Rakesh Kumar	
Mr. Dibesh Dwivedi	... for the respondent No.2

July 07, 2025
[AKB]
Item No.19

The petitioner has filed the present writ application challenging the order No. 421 dated 29.01.2025 wherein the Secretary, Sri Vijaya Puram Municipal Council has passed an order directing the petitioner to remove his shop set up illegally under the space meant for staircase within two days from the date of this order failing which Executive Engineer – I (Works) is directed to execute the order at the cost of the petitioner and to file compliance report.

This Court finds that in one paragraph of the order it is recorded that ‘the petitioner may apply afresh with the Port Blair Municipal Council for allotment of a lawful shop room and the council shall consider the same strictly in accordance with the rules and availability of the space as also subject to any other pending application in accordance with law’. On the very second paragraph it is recorded that

‘it is pertinent to mention here that the petitioner has not applied for any lawful shop in SVPMC. Moreover, SVPMC does not have any vacant lawful shop for allotment at the vegetable market at Mohanpura’.

This Court finds that the Secretary Municipal Council is of the view that the petitioner has not applied for allotment of shop in SVPMC. But the petitioner has disclosed two representations dated 20.12.2018 and 13.02.2022 requesting for allotment of earmarked respective shop rooms at Mohanpura Vegetable Market. The Secretary Municipal Council has not considered the representations made by the petitioner dated 20.12.2018 and 13.02.2022 and passed the impugned order.

Considering the above this Court find that the reason assigned by the Secretary, Municipal Council holding that the petitioner has not applied for allotment of shop in the SVPMC is contrary to the document available on record.

Accordingly, the impugned order No. 421 dated 29.01.2025 is set aside and quashed and the matter is remanded back to the Secretary, Municipal Council to consider afresh by taking into consideration of the representations made by the petitioner dated 20.12.2018 and 13.02.2022 available at page 50 and 51 of the present writ application and after giving an opportunity of personal hearing to the petitioner to pass reasoned and speaking order within a period of eight weeks from the date of receipt of this order.

It is made clear if the speaking order goes against the petitioner, the authorities shall not take any action against the petitioner for one week from the date of the order.

WPA/55/2025 is disposed of.

(Krishna Rao, J.)