

Sl. No.01.
06.03.2025
Suman
Ct. 15

Calcutta High Court
In the Circuit Bench at Port Blair
Appellate Side

WPA 132 of 2025
Shri R. Mohan

Vs.

Hon'ble Lt. Governor, Andaman and
Nicobar Administration, Raj Niwas and
Ors.

Mr. Sakya Sen
Mr. Asif Hussain
Mr. Jyoti Singh
Mr. Rishav Deb Barman
Ms. Y. Begum
..for the petitioner

Mr. Shatadru Chakraborty
Mr. Bhaskar Dwivedi
Mr. Rakesh Kumar
..for respondents

The petitioner challenges an order dated March 3, 2025, issued by the Secretary of the Municipal Council of Sri Vijaya Puram.

By the impugned order, the said authority determined that the petitioner had unlawfully erected a rolling shutter, thereby encroaching upon a verandah space intended for customers. As a result, the petitioner was directed to remove the rolling shutter and restore the verandah space at the petitioner's expense on or before March 6, 2025. The notice further stipulated that in the event of

non-compliance, the Municipal Council would remove the rolling shutter at the petitioner's cost.

Mr. Sakya Sen, learned advocate for the petitioner, disputes the findings of the authority in passing the impugned order. He submits that the petitioner installed the shutter in full compliance with the permission letter dated October 22, 2011, issued by the Revenue Officer of the Municipal Council. Moreover, the petitioner has never been penalized for installing the shutter in accordance with the said permission letter. He denies the allegations of encroachment.

On the other hand, Mr. Shatadru Chakraborty, learned advocate for the Municipal Council, submits that the impugned order was passed after considering all relevant documents, as directed by this Court in its order dated January 31, 2025, in WPA 50 of 2025. He further contends that the impugned order provides proper reasoning and findings regarding the petitioner's encroachment.

However, it does not appear from the impugned order that the Municipal Corporation inspected the relevant premises with due notice to the petitioner, from which the finding of encroachment was derived.

In light of this, Mr. Lokesh Chelizean (Mobile No. 7063952477) is appointed as a Special Officer to inspect the premises in question on March 15, 2025, at 1:30 p.m., to determine, with the help of surveyor, whether the rolling shutter has been recently erected to occupy the space intended for customers.

The petitioner is required to be present during the inspection.

A competent officer of the Municipal Council shall also be present during the inspection. Since all parties are present before this Court, the Special Officer is not required to issue a separate notice for the inspection.

The matter shall be listed after three weeks under the heading "Upgraded Motion," when the Special Officer shall submit his report before this Court.

The Special Officer shall be compensated with a consolidated fee of Rs.10,000, which shall be borne by the petitioner.

In view of the above, there shall be a stay on the operation of the impugned order dated March 3, 2025, for a period of six weeks from the date of this order.

(Kausik Chanda, J.)