

WPA 16136 of 2026

Md. Ajmal Siddique & anr.
Versus
The Bidhannagar Municipal Corporation & Ors.

Mr. Bikash Ranjan Bhattacharyya
Mr. Sudipta Dasgupta
Mr. Baibhav Roy
Ms. Anushka Dasgupta
Ms. Sinjini Chakraborty

... For the petitioners

Mr. Anish Kumar Mukherjee
Mr. Suryaneel Das
..... for the Bidhannagar Municipal Corporation

1. The present writ petition has been filed, inter alia, challenging a demolition order passed by the Commissioner, Bidhannagar Municipal Corporation on 4th July, 2026. Citing extreme urgency, this matter was mentioned and has accordingly been listed.
2. At the time of hearing, the learned advocate representing the Bidhannagar Municipal Corporation had submitted that he had no prior notice, however, having seen the matter in the list, he had appeared. Accordingly at his instance, the matter was passed over for him to take appropriate instructions in the matter. Following which, the matter has been taken up once again.
3. Mr. Bhattacharyya, learned senior advocate representing the petitioners, at the very outset, has stated that the opportunity of hearing which was provided to the petitioners were not adequate.

According to him, the objections raised by the petitioners were not taken into consideration and the order impugned was passed. By drawing attention of this Court to the order dated 4th July, 2026, he would submit that the Commissioner, Bidhannagar Municipal Corporation by ignoring the statutory provisions of appeal as provided for in Section 266(3) of the West Bengal Municipal Corporation Act, 2006 (hereinafter referred to as the said Act) has passed the order and has directed the petitioners to execute the same within 3 days. This according to him, is in violation of the statutory provisions and interferes with the petitioners' right to prefer an appeal. On such ground as well, he seeks interference.

4. Mr. Mukherjee, learned advocate representing the Bidhannagar Municipal Corporation has drawn the attention of this Court to the show-cause notice dated 14th May, 2026 and would submit that the petitioners were duly put on notice with regard to the alleged unauthorized construction carried out at premises No. FE-20 Salt Lake City, Sector III, Kolkata 16. He would submit that the above notice clarified that the same was issued in accordance with the provisions of Section 266 of the said Act to deal with the unauthorized construction. According to him, the said notice was duly responded to by the petitioners on 26th

May, 2026 wherein it was stated that the sanctioned building plan, relevant municipal records, approvals and other connected documents were not readily available with the petitioners and that the same are in the custody, possession and knowledge of his father who is the person competent to furnish an effective and comprehensive reply to the allegations contained in the said notice. Accordingly, time was sought for. Acceding to the request of the petitioners, a fresh notice was issued on 24th June, 2026 so as to offer an opportunity of hearing to the petitioners which was scheduled on 27th June, 2026. He would, however, acknowledge the fact that the said notice was in fact delivered to the petitioners as would appear from the records, on 27th June, 2026 at 6 p.m. obviously, therefore, the petitioners could not attend. In the circumstances as aforesaid, a further notice was issued on 27th June, 2026 calling upon the petitioners to appear on 4th July, 2026. According to him, the petitioners were personally present and had attended the hearing. In course of such hearing, the petitioners had acknowledged that there had been unauthorized construction and prayed for regularization. Since, the petitioners themselves had accepted that there was unauthorized construction and since, law did not

permit regularization, the above order was passed. According to him, affording opportunity to the petitioners even after the petitioners having acknowledged the illegal construction would be a futile exercise. He further submits that if this Court interferes in the matter and passes an order permitting the petitioners to prefer an appeal, the same would tantamount to opening a flood gate of litigation and the municipality shall not be in a position to enforce the order of demolition of unauthorized construction.

5. Having heard the learned advocates appearing for the respective parties, I find that the matter pertains to illegal construction. Admittedly, in this case, the municipality had notified the petitioners of an illegal construction and had called upon the petitioners to show-cause in terms of the provisions contained in Section 266(1) of the said Act. The petitioners had duly responded to the said show-cause by a letter in writing dated 26th May, 2026 and sought for time. Subsequently, on 24th June, 2026, a notice of hearing was issued, fixing 27th June, 2026 at 12:20 p.m. as the date and time for the hearing. Incidentally, the said notice was served on the petitioners on 27th June, 2026 at around 18:00 hrs., i.e., beyond the time fixed for holding the meeting. Records would also reveal that the

hearing was not concluded on 27th June, 2026 rather the petitioners were offered a further opportunity and the hearing was rescheduled on 4th July, 2026. It is also a matter of record that the petitioners had appeared before the Commissioner, Bidhannagar Municipal Corporation and had acknowledged that there had been unauthorized construction. The factum of acknowledgement of unauthorized construction has, however, been denied by the petitioners in paragraph 13 of the writ petition.

6. Be that as it may, the fact remains that the Commissioner upon ascertaining from the petitioners that there has been unauthorized construction and in his view there was no scope to regularize the same, had passed the order of demolition. The question that falls for consideration in the present writ petition is whether the adjudicating authority was competent to decide on the fate of the appeal to be preferred by the petitioners. In this context, I find that the learned advocate for the Corporation has stated that since adjudicating authority found that there was no scope to alter the decision, he had passed the order and directed implementation thereof within three days.
7. I however, find that the statute recognizes a right in favour of the parties aggrieved to prefer an

appeal from an order passed under Section 266(1). In my view, the adjudicating authority cannot seal the fate of the appeal on the basis of his understanding of the law. If the statute recognizes that the person aggrieved has a right to prefer an appeal, such right cannot be interfered with or usurped by the adjudicating authority. The argument of the learned advocate for the municipality that affording time to prefer an appeal would open flood gates appears to be misconceived. The statutory period for preferring the appeal also cannot be abridged on such consideration.

8. In the facts as aforesaid, I am of the view that the order passed by the Commissioner, Bidhannagar Municipal Corporation dated 4th July, 2026 should be read so as to provide an opportunity of 30 days to the petitioners to act in accordance with the said order for the petitioners, if aggrieved, to prefer an appeal therefrom.
9. With the above observations and directions, the writ petition is disposed of.
10. It is made clear that this Court has not gone into the merits of the adjudication order which was passed the Commissioner, Bidhannagar Municipal Corporation, thus leaving it open to scrutiny before the Appellate Authority if called for.

11. Since no affidavit has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

(Raja Basu Chowdhury, J.)