

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 24876 of 2026

All India Trinamool Congress

Vs.

The State of West Bengal & Ors.

Mr. Kishore Datta, Sr. Adv.

Mr. Agnish Basu

Mr. Sarbojit Mukherjee

Mr. Aditya Roy

Mr. Vipul Vedant

Mr. Gourav Bose

....For the petitioner.

Mr. Surojit Nath Mitra, Advocate General

Mr. Rajdeep Majumdar, Addl. Adv. Gen.

Mr. Prasanta Naskar

Mr. Srijit Halder

....For the respondents/
State.

Mr. Soumya Majumder, Sr. Adv.

Mr. Moyukh Mukherjee

Mr. Koustav Lal Mukherjee

Ms. Sagnika Banerjee

....For the respondent no. 11.

Mr. Debanjan Mukherjee

....For the respondent/CESC Ltd.

Hearing Concluded On : 11.09.2026

Judgment Delivered On : 16.09.2026

Judgment Uploaded On : 16.09.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition challenging the impugned order dated 4th September, 2026, issued by the Director-in-Charge, West Bengal Fire and Emergency Services wherein the petitioner is directed to vacate the 6th and 7th floors of the building at premises no. 9, Abanindranath Tagore Sarani (Camac Street), Kolkata – 700 017 for non-maintenance and inadequacy of the required fire safety measures in the said occupancy of the building and the occupancy is unsafe from fire and life safety and it poses imminent threat to the safety of life and property of the building and its surroundings.
2. The private respondent no. 11 has entered into a lease deed on 1st March, 2020, in favour of the petitioner with respect to 6th and 7th

floors of a multistoried building situated at premises no. 9, Abanindranath Tagore Sarani (Camac Street), Kolkata – 700 017 (hereinafter referred to as “said premises”). Since then, the petitioner is in occupation of the said premises. On 1st September, 2026, the respondent no. 4 has issued a notice to the petitioner being an occupier as well as to the respondent no. 11 being the owner of the said premises for hearing in respect of non-compliance of fire safety measures of the said premises.

3. The petitioner has submitted his detailed reply to the respondent no. 4 on 3rd September, 2026. On receipt of the reply, submitted by the petitioner, the respondent no. 4 has passed the impugned order.
4. Mr. Kishore Datta, Learned Senior Advocate, representing the petitioner submits that on receipt of the notice of hearing, the petitioner has submitted a detailed reply by intimating that the notice of hearing was issued to the petitioner on the basis of the inspection report, but no inspection report is supplied to the petitioner. The petitioner has further informed that as per Clause 6.1.7 of the lease deed dated 1st March, 2020, the lessor shall be responsible for the maintenance of the statutory firefighting facilities including maintenance of fire hydrants within and around the demised premises and for the periodical statutory testing/ certification of the equipment in accordance with the applicable local rules/regulations. He further submits that Clause 6.1.8 further provides that the lessor shall provide No Objection Certificate (NOC) or any other required documents as may be required to apply

licenses and connections for various of utilities. By referring the said clauses, Mr. Datta further submits that the expressed contractual stipulations, the obligation in relation to the statutory firefighting facilities and the periodical statutory testing and certification thereof, including the necessary steps in relation to the Fire Safety Certificate, was to be undertaken by the lessor.

- 5.** Mr. Datta submits that the structured referred in the notice, has been removed. The drive-way is presently clear and unobstructed, and there is ample and unhindered space for movement of firefighting appliances and equipment in the event of any emergency. The LPG cylinders stored at the 7th floor kitchen/cafeteria area has already removed and no longer placed at the said location. In reply, it is further informed that there are two entry/ exit from the office to the internal corridor of the 7th floor.
- 6.** Mr. Datta submits that as regards the Fire Alarm and Detection System at the 6th and 7th floors, at the 6th floor approximately 60 fire sprinklers and 15 smoke detectors and at 7th floor approximately 45 fire sprinklers and 15th smoke detectors are available. Mr. Datta further submits that in the reply, the petitioner has categorically stated that the petitioner is ready and willing to extend full cooperation to the competent authorities and will ensure that all applicable fire and life safety requirements will be installed as per requirement.

7. Mr. Datta submits that after receipt of the reply submitted by the petitioner neither the authorities have visited to ascertain whether the reply submitted by the petitioner is correct or not and the respondent authorities have not given any further time to complete any further short comings for installation of firefighting equipment instead has passed the impugned order. He submits that the respondent no. 4 has passed the impugned order without assigning any reason and as such the order is required to be set aside and quashed. In support of his submissions, he has relied upon the judgment in the case of **Cyril Lasrado (Dead) by Lrs. & Ors. vs. Juliana Maria Lasrado & Anr.** reported in **(2004) 7 SCC 431** and submits that failure to give reasons amounts to denial of justice and in the present case, the respondent no. 4 only by referring the provisions of the West Bengal Fire Services Act, 1950, has issued the impugned order without assigning any reason.
8. Mr. Datta submits that Section 11C of the West Bengal Services Act, 1950 (hereinafter referred to as “Act of 1950”), provides that if the owner is not traceable, the occupier of the high risk building or part thereof shall provide fire prevention and fire safety measures in the said building or part thereof and the occupier shall maintain the fire prevention and fire safety measures in good repair and in efficient condition but in the present case, the owner is available and as such Section 11C is not applicable to the petitioner.

- 9.** Mr. Datta submits that the notice of hearing was served to the petitioner on 1st September, 2026 being the occupier of the said premises and the petitioner has submitted reply to the said notice on 3rd September, 2026, which was duly received by the respondents but the impugned order dated 4th September, 2026, is not served to the petitioner and is served only to the owner though by the impugned order, the right of the petitioner is affected.
- 10.** Mr. Surojit Nath Mitra, Learned Advocate General, raised the point of maintainability of the writ petition on the ground that the impugned order passed by the respondent no. 4 is an appealable order under Section 11-I of the Act of 1950. He further submits that as per Rule 24 of the West Bengal Fire Services (Fire Prevention and Fire Safety) Rules, 2003 (hereinafter referred to as “Rules, 2003”) also provides an appeal but instead of preferring an appeal, the petitioner has filed the present writ petition.
- 11.** Mr. Mitra submits that in the reply dated 3rd September, 2026, the petitioner has shifted the responsibility upon the owner of the said premises and as such, the impugned order is served to the owner of the said premises. He further submits that in the reply, the petitioner has admitted for violation of Section 11C of the Act of 1950. He submits that the petitioner has neither in the reply nor in the present writ petition has prayed for time to rectify the shortcomings of the fire safety of the said premises.

- 12.** Mr. Mitra submits that as per Section 11C of the Act of 1950, it is also the duty of the occupier to maintain the fire prevention and fire safety measures in good repair and in efficient condition but in the present case, the petitioner failed to maintain the same. He further submits that even after receipt of the notice, though the petitioner has submitted its reply but has not made any application for grant of Fire Safety License.
- 13.** Mr. Mitra submits that the respondent no. 4 has passed an order by assigning the reason that the petitioner failed to maintain the required fire safety measures being the occupier of the premises and thus, it cannot be said that the impugned order is without any reason.
- 14.** Mr. Soumya Majumder, Learned Senior Advocate, representing the respondent no. 11 submits that she is not liable for any acts, omission, unauthorized alternation, storage practices or operational arrangement undertaken by the petitioner being the lessee as during the lease period, the petitioner has denied access to ineffective control over the demised premises.
- 15.** Mr. Majumder submits that the respondent no. 11 has not authorized the petitioner to use the said premises in violation of the sanctioned plan or any unsafe manner. He submits that the petitioner being the lessee is required to maintain the premises in the proper state of repairs and to undertake the internal minor repairs and maintenance at its cost but the petitioner failed to do so.

- 16.** Section 11-I provides an appeal against the order of Director. As per the said provision, any person aggrieved by an order of the Director under this Chapter, may within 30 days of the service of the order preferred an appeal to the such authority as may be prescribed. The respondent no. 4 has issued the notice dated 1st September, 2026, directing the petitioner to submit written explanation within 48 hours as to why the order of evacuation and sealing of the said premises under Section 37A of the Act of 1950 will not be imposed. From the said notice, it is clear that the respondent no. 4 has issued the notice under Section 37A of the Act of 1950. Section 37A coming under Chapter-VI (Miscellaneous). Section 11-I coming under Chapter-IIIA (Fire Prevention and Fire Safety). Section 11-I provides an appeal against an order passed by the Director under Chapter IIIA of the said Act but the impugned order is not passed under the Chapter-III. The order is passed under Section 37A which is coming under Chapter-VI.
- 17.** Section 38 of the Act of 1950 also provides for an appeal but as per the said Provision, any aggrieved person by an order under Section 35, 36 or 37 may prefer an appeal within 30 days from the service of the order but the respondent no. 4 has passed an order under Section 37A.
- 18.** Considering the above, this Court finds that neither Section 11-I nor Section 38 is applicable to the petitioner for preferring an appeal against the impugned order.

- 19.** The respondent no. 4 has issued notice of hearing for non-compliance of fire safety measures on 1st September, 2026 with the following allegations:

“1. Valid Renewal of Fire Safety Certificate of the said premises was not found during inspection thus the occupancy is presently in total violation of Section 11C under West Bengal Fire Services Act, 1950 and thus life & fire safety of the occupants as well as that of the said establishment is totally compromised.

2. One Mild Steel Structure with corrugated sheet roofing found constructed by encroaching the driveway violating the approved plan thus hindering the movement of Fire Appliances.

3. Several nos. of LPG cylinders found stored at the 7th floor Kitchen/Cafeteria area which was not shown in approved plan thus increasing the fire load of the occupancy and compromising life & fire safety of the occupants.

4. Sequence of the pump was not maintained in accordance with the standard norms and firefighting water not found in Riser system at 7th floor level of the said building.

5. Only one exit/entry found from the office to the internal corridor of the 7th floor which create an evacuation problem during emergency.

6. Fire Alarm & Detection system at 6th & 7th floor was found inadequate & non-functional thus compromising life & fire safety of the occupants.”

- 20.** The petitioner has submitted his detailed reply by dealing with all the allegations. The petitioner has stated that the petitioner has removed the structure referred in the notice and the drive-way is presently clear and unobstructed, thereby ensuring that there is ample and unhindered space for movement of firefighting appliance and

equipment in the event of any emergency. He has also informed that the LPG cylinders in the said notice are no longer placed in the said location, thereby the petitioner has removed the LPG cylinders. As regards the observation of the pump, the petitioner has informed that at the time of the maintenance, the butterfly valve pertaining to the riser system has been kept in non-operational position, as a consequence thereof, the requisite pressure was not available at the 7th floor at the time of inspection but the system is otherwise maintained with a view to ensure its proper functioning and availability in the event of an emergency.

21. The petitioner has also informed that there are two entry/exit of the office to the internal corridor of the 7th floor. The petitioner has also informed with regard to availability of fire sprinklers and smoke detectors at the said premises. The petitioner has also requested in its reply, that the petitioner is ready and willing to extend full cooperation to the competent authority to ensure that all applicable fire and life safety equipments are duly observed. In para 44 of the writ, the petitioner has further stated that the petitioner is willing to comply with all lawful requirements and is also willing to participate in any fresh inspection directed by this Court and to undertake such reasonable fire-safety measures as may be required lawfully.

22. The petitioner has submitted his representation on 3rd September, 2026, and immediately on the very next day, the respondent no. 4 has passed the impugned order. In the impugned order, the respondent no.

4 has not dealt with the reply submitted by the petitioner to the hearing notice dated 1st September, 2026.

- 23.** The respondent no. 4 has communicated the impugned order to the respondent no. 11 who is the owner of the property and not to the petitioner. At the time of hearing, the Learned Advocate appearing for the respondent no. 11 has handed over the copy of the reply submitted by the respondent no. 11 dated 4th September, 2026 to the notice dated 1st September, 2026.
- 24.** This Court also finds that the said reply was submitted by the respondent no. 11 to the respondent no. 4 on 4th September, 2026, at 16:32 hours that is after the impugned order passed by the respondent no. 4. Thus, it is clear that the respondent no. 11 has not submitted any reply to the notice dated 1st September, 2026, to the respondent no. 4 prior to the impugned order dated 4th September, 2026.
- 25.** This Court finds that the respondent no. 4 without considering the reply submitted by the petitioner and without carrying out any inspection after the reply submitted by the petitioner, has passed the impugned order. The petitioner is ready and willing to comply with all the requirements for the purpose of fire safety of the said premises, the respondent no. 4 ought to have granted time to the petitioner to comply with all the requirements to install fire safety equipments.
- 26.** In view of the above, the impugned order dated 4th September, 2026, passed by the respondent no. 4 is set aside and quashed. The

respondent no. 4 is directed to reconsider the reply submitted by the petitioner dated 3rd September, 2026 and to inspect the said premises again after issuance of notice to the petitioner and after the inspection, if the respondent no. 4 finds any further shortcomings in the said premises for fire safety measures, the respondent no. 4 shall further inform to the petitioner to complete all the shortcomings. Even after the notice to the petitioner, the petitioner failed to comply with the provisions for installation of the fire safety of the said premises, the respondent no. 4 shall at liberty to take appropriate action against the petitioner in accordance with law.

27. WPA No. 24876 of 2026 is disposed of.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)