

Item 13
29.07.2026
Court. No. 11
Cp/gb

Calcutta High Court
In the Circuit Bench at Jalpaiguri

MAT 68 of 2026
CAN 1 of 2026

Santosh Poddar
Vs.
Rajesh Kumar Agarwal & Ors.

Mr. Nabankur Paul
Mr. Nikhil Mohpal
Mr. Ankur Agarwal

...for the appellant.

Mr. Pradip Chatterjee

.....for the respondent nos. 2 to 5.

1. Despite service none appears on behalf of the writ petitioner/respondent no. 1.
2. The Siliguri Municipal Corporation and its officers are represented.
3. The appeal arises out of an order dated July 10, 2026, passed in WPA 1076 of 2026. By the order impugned, the learned Single Judge held that the application for regularization of minor deviations should be considered by the Siliguri Municipal Corporation. The writ petition was kept pending for hearing upon exchange affidavits and the order of demolition was stayed.
4. Under the West Bengal Municipal Corporation Act, 2006 major deviations

cannot be regularized. Moreover, it is the discretion of the authority.

5. The corporation and the appellant submits that, only if the deviation is around 5%, the same can be regularized. The direction of His Lordship was not correct. Upon several notices being issued to the writ petitioner and upon affording a proper opportunity of hearing, an order was passed by the corporation on May 21, 2026, by which serious deviations were found. It was the specific finding of the corporation that the construction was undertaken in deviation from the sanction plan and were thus, unauthorized.
6. The writ petitioner was directed to remove the unauthorized portions on or before June 10, 2026. The writ petitioner did not comply and it is informed to us by the learned advocate for the corporation that, part demolition had taken place prior to filing of the writ petition. Pursuant to the order of His Lordship, further demolition has not been undertaken.
7. We are of the view that the issues raised by the appellant before us should be raised before the learned writ court. The writ petition is pending. We also record

that the decision of the corporation was taken on the basis of a direction of the High Court and, as such, the question of regularization, in our prima facie view, does not arise, considering the nature of the deviations which have been recorded in the order of the corporation. However, our views are all, prima facie, and the learned Single Judge will decide the issue involved. The direction upon the corporation to consider the prayer for regularization is set aside.

8. The order impugned is modified. The corporation is directed not to cause further demolition for a period of one month. The appellant shall make sincere effort to get the writ petition heard. This order will be communicated to the writ petitioner/respondent no.1.
9. Let affidavit-in-opposition to the writ petition be filed by the corporation and the appellant within a week; reply thereto, if any, be filed within a week thereafter.
10. The learned advocates for the appellant and the corporation both submit that in the writ petition vital information and documents had been suppressed. In

the affidavits-in-opposition, all these facts will be disclosed.

11. The Siliguri Municipal Corporation will inform the writ petitioner about this order.
12. Certified copy of the order impugned shall be furnished with the department.
13. Accordingly, the appeal and the connected application are disposed of.
14. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Smita Das De, J.)