Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 33783 of 2026

Roquya Bibi
Versus
The Administrator & Commissioner
Bidhannagar Municipal Corporation & Ors.

For the petitioners	:	Mr. Biswaroop Bhattacharya Mr. Sumitava Chakraborty Ms. Maitrayee Das
For the State	:	Ms. Marry Datta(VC)
For the Municipality	:	Mr. Anish Kumar Mukherjee (VC)
Heard on	:	28.11.2026
Judgment on	:	**28.11.2026**

Raja Basu Chowdhury, J (Oral):

1. Affidavit of service filed in Court is taken on record.
2. This matter has been filed upon obtaining leave from this Hon'ble Court having regard to the urgency pleaded in the notice.
3. The matter is taken up for consideration upon notice to the respondents.

4. Copies of the communication along with the photocopy of the e-mail communication both dated 28th November, 2026 has been placed before this Court.

5. Mr. Bhattacharya, learned advocate appears on behalf of the petitioner and would submit that the petitioner is the absolute owner of the premises having municipal holding no. AS/542/03/03 under municipal ward no. 2, Borough-I of the Bidhannagar Municipal Corporation under Narayanpur Police Station, situated at Methopara, Ambagan, beside the house of Rabindar Yadav within District North 24 Parganas. According to the case made out by the petitioner, the petitioner had noticed the demolition order dated 9th November, 2026 only on 22nd November, 2026 when she went to collect rent from the tenants in the said premises. Immediately thereafter the petitioner had applied for obtaining certified copy of the demolition order on 23rd November, 2026. In support of the above contention the communication dated 23rd November, 2026 is relied on. Mr. Bhattacharya further submits that at no point of time the petitioner was served with any notice. Inspection report referred to in the demolition order was also not served on the petitioner. According to him, prior show cause was also not served before the order impugned was passed. This apart, by drawing attention of this Court to Section 266(3) of the West Bengal

Municipal Act, 2006 (hereinafter referred to as the "said Act") he would submit that an order passed by the Municipal Commissioner is appealable. Such appeal can be filed within 30 days. In the instant case, although the petitioner has all supporting documents including the sanctioned building plan in absence of any notice the petitioner could not place the same before the authority. He submits that the authority without waiting for a period 30 days has proceeded with the demolition. In the peculiar facts he seeks interference.

6. Mr. Mukherjee, learned advocate appears for the Bidhannagar Municipal Corporation. According to him despite service of repeated notice none appeared in relation to the demolition proceeding. No document far to speak of any sanctioned plan was placed before the authority. In the peculiar facts in absence of any statutory document and there being no sanctioned building plan for the construction, the authority has proceeded to pass the demolition order under Section 266(1) of the said Act which is now being executed.

7. Having heard the learned advocates appearing for the respective parties and having considered the materials on record I find that even without going into any disputed question of facts as regards the service of the notice on the petitioner, the authority ordinarily

ought to have waited for the expiry of the minimum period for preferring the appeal before enforcing the said order. I find that the statute recognizes a right to prefer an appeal which is embodied under Section 266(3) of the said Act. The period for preferring the appeal before the Municipal Building Tribunal is 30 days from the date of the order. In the instant case, the authorities have proceeded prior to expiry of the aforesaid period. In my view the minimum period provided for in the statute cannot be taken away by the authorities and an opportunity should be afforded to the person aggrieved to prefer an appeal.

8. In the peculiar facts without enter into the controversy as to whether the petitioner was at all served with the copy of any notice, I am of the view, that justice would be sub-served if the petitioner is permitted to assail the above order before the Appellate Tribunal in accordance with law.

9. Considering the case made out, there shall be an order of stay restraining the respondents from proceeding with the demolition work any further qua the aforesaid property till 8th December, 2026.

10. Further noting that the petitioner has already applied before the authorities for obtaining certified copy, it is expected that the certified copy of the demolition order shall be made over to the petitioner on an expeditious basis. In the event no certified copy of

the order is made available, the petitioner shall be at liberty to prefer the appeal without the certified copy before the Appellate Tribunal on the undertaking to file the same upon the same being made available subject to the period of limitation.

11. Since no other issues survive in the writ petition, the writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

Sb
A.R. (Court)