OD-3 ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/527/2026

DRILL WILL CLUBS AND HOSPITALITY PRIVATE LIMITED AND ANOTHER
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date : 4th November, 2026.
(Vacation Bench)

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. Anant Kumar Shaw, Adv.
Mr. Supratik Syanal, Adv.
Mr. Saikat Thakurata, Adv.
Ms. Dipanwita Das, Adv.
Ms. A. Ray. Adv.
... for the petitioner.

Mr. Dyutimoy Paul, Adv.
Mr. N. G. Khaitan, AOR.
...for the State/respondent no. 1

Mr. Piush Chaturvedi, Sr. Adv.
Mr. Debanjan Mukherjee, Adv.
Mr. Dipankar Ghosh, Adv.
...for KMC.

The Court:- The writ petition pertains to a structure erected on the ultimate roof of premises No. 20B, Park Street, Kolkata- 700016 (hereinafter for the sake of convenience referred to as 'the said structure'). There is a dispute as to whether the structure pertains to the entire portion of the ultimate roof or only to a part thereof.

Be that as it may, the petitioner says that on 19th April, 2024 a notice under Section 401 was issued by the Kolkata Municipal Corporation (in

short 'KMC') under the provisions of Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the '1980 Act').

Before further proceeding could take place pursuant to such notice it is the case of the petitioner that the State Level Committee for Fire Safety and Regulatory Compliances (hereinafter for the sake of convenience referred to as the said Committee) was constituted in accordance with the memo bearing no. 42-CS/2025 dated 22.05.2025 issued by the Chief Secretary, Government of West Bengal. In terms of the resolution taken in the third meeting of such committee, certain general findings were recorded regarding roof top construction and activities. The Committee in the said meeting also provided for certain interim measures. It is the case of the petitioner that pursuant to such Standard Operating Procedure (in short 'SOP') framed by the said committee, the petitioner was allowed to carry on business on complying with certain requirements from the said structure. The petitioner claims to have complied with such requirements and continues to do so for which the petitioner was permitted to operate its business from the said structure. The petitioner says that all on a sudden a notice under Section 400(1) of the 1980 Act was issued to the petitioner being the person responsible to demolish said structure. The petitioner's grievance is that without any hearing KMC has come to a conclusion that the structure wherefrom the petitioner carries on business is an illegal and unauthorized construction which requires to be demolished. The petitioner says that the said structure is not a construction as held by a Co-ordinate Bench in the judgment reported in ***2025 (3) CHN (Cal) 521 (Kishori Lal Poddar vs. Bidhannagar Municipal Corporation).*** The petitioner also says that the notice clearly shows that the KMC is predetermined to initiate

proceedings under Section 400(8) of the 1980 Act and demolish such structure without even giving the petitioner a proper opportunity of hearing. Even if, the authority under Section 400(8) of the 1980 Act is given to the Mayor-in-Council which is non-functional at present, the petitioner apprehends that the Administrator/Commissioner of KMC may exercise such power to demolish the structure. The petitioner therefore seeks a protection against such action of KMC and as an interim measure prays for stay of the notice dated 27th October, 2026.

On behalf of the KMC a report dated 4th November, 2026 is placed before this Court which is taken on record. In terms of the said report, it appears that a date of hearing in respect of the matter in question has been fixed on 17th November, 2026 before the Special Officer (Building).

There are certain legal issues involved in this matter. Firstly, whether the committee constituted by the Chief Secretary pursuant to the memo dated 22nd May, 2025 can by resolution passed in its meeting, substitute the legal powers available to KMC under the constitutional framework keeping in view the provisions of Article 243P to 243W of the Constitution of India. Secondly, whether the powers of the municipal authorities to decide on the nature of the said structure get abrogated due to the decision of the said committee.

Be that as it may, the KMC pursuant to the SOP allowed the petitioner to operate its business. This permission in my view cannot, however, be construed a KMC having waived its legal rights or became denuded of the same in view of the decision taken by such committee in the light of the constitutional mandate under various sub-Articles of Article 243. Even if, KMC had allowed the petitioner to continue with the business from the said

structure it cannot be legally concerned that KMC for all times to come cannot go into the legality of the structure at the ultimate roof of premises no. 20B, Park Street, Kolkata-700016. The KMC is well within its authority to probe into the nature and character of the structure wherefrom the petitioner is carrying on business and find out whether the same is legal or authorized.

Mere issuance of the notice under Section 400(1) does not mean that the structure will be demolished without due process of law. KMC has also issued a hearing notice. The petitioner is permitted to participate in the said hearing and ventilate all its grievances. Only after due and proper consideration of such grounds raised by the petitioner, the authority concerned shall pass a reasoned order regarding the nature and character of the structure in question. The hearing to the petitioner is also necessary in the instant case as the SOP was framed by the Government which includes the Department of Municipal Affairs which controls the functioning of KMC in the way and manner as the law prescribes.

In the aforesaid facts and circumstances, KMC is directed to supply the documents pertaining to the structure in question sought to be relied upon by KMC to the petitioner by 19th November, 2026 and the petitioner shall file a detailed objection stating all its points by 27th November, 2026 and, thereafter, the concerned authority shall fix a date of hearing. The date of hearing fixed on 17th November, 2026 stands cancelled and shall be fixed only after 27th November, 2026.

It is also made clear that in the event no document as directed is supplied by the KMC, the petitioner will be entitled to approach this Court. On the other hand, even after supply of all relevant documents, if no

objection is filed by the petitioner within 27th November, 2026 the KMC authorities shall be free to take appropriate steps as permissible in law.

As no further issue remains outstanding, the writ petition being WPO/527/2026 accordingly stands disposed of.

(ARINDAM MUKHERJEE, J.)

gb/mg