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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/449/2026
RAJESH TRIPATHI AND ORS
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE :
HON'BLE JUSTICE RAJA BASU CHOWDHURY
DATE : 28th September, 2026.

Mr. Sanjoy Bose, Adv.
Mr. Priyankar Basu Mallick, Adv.
Mr. Sattick Rout, Adv. ...for petitioners.

Mr. Billwadal Bhattacharyya, SR. Adv., Ld. AAG,
Mr. Sanjib Chakraborty, Adv. ...for KMC.

Mr. Parashar Baidya, Adv.
Mr. N. G. Khaitan, Adv. ...for State.

The Court :- 1. Affidavit of service filed in court today be taken on record.

2. Challenging the dated 3rd September, 2026 captioned as a notice of closure of Guest House whereby the petitioners' business run under the name and style of 'Kuber Residency' from premises no.764, Laskarhat Road, 2nd Floor, also known as Laskarhat, H2A, Tagore Park Main Road, Kuber Residency, Kolkat 700039 has been directed to be completely closed, the instant writ petition has been filed. The petitioners are also aggrieved by the suspension of the petitioners' certificate of enlistment.

3. According to the learned advocate for the petitioners the grounds based on which the above closure notice has been issued is the violation of Section 416 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred as 'the

said Act'). He has also drawn the attention of the Court to an order passed by the Special Officer [Building] dated 22nd March, 2024 whereby the petitioners' conversion of the residential building for non residential use has in fact been regularised upon payment of requisite fees.

4. According to Mr. Bose, learned advocate representing the petitioners, the petitioners have already deposited a sum of Rs.1,16,12,817/- as computed, with the Municipality. He submits that once the petitioners deposited the aforesaid sum, it was not within the competence of the Municipality to once again issue the closure order on the ground of the petitioners having violated the provisions of Section 416 of the said Act.

5. The learned Additional Advocate General appears for the Municipality. He submits that in the instant case, prima facie, the respondents have been able to ascertain that there has been violation of Section 416 of the said Act. In any event, he would submit that since the petitioners have now come up with the disclosure of the retention order and the receipt showing payment of fees, as aforesaid, the Municipal authorities would reconsider the above case.

6. Having heard learned counsel appearing for the respective parties and upon going through the materials on record, I find that the aforesaid notice of closure dated 3rd September, 2026, has been issued by the Municipality without giving any opportunity of hearing as is ordinarily required having regard to Section 416(5) proviso of the said Act. As such there has been non compliance of Section 416(5) Proviso of the said Act.

7. This apart, there appears another aspect of the matter. As rightly pointed out by Mr. Bose, representing the petitioners that the violation complained of under Section 416 of the said Act apparently appears to have been regularised

by the Municipality by way of the order dated 22nd March, 2024. In the instant case, the Municipality has already realised a sum of Rs.1,16,12,817/- paid by way of two several instalments on 31st March, 2024 and 10th March, 2025 as per the computation made available to the petitioners. Though the learned Additional Advocate General would submit that the direction for making payment was within a specified time, I am, however of the view that simply because the amount has been belatedly paid, the same would not render the payment bad, especially, when no complaint for delayed payment appears to have been made contemporaneously. The receipts showing payments of the fees have also been disclosed. Since, payments have already been made by the petitioners as would corroborate from the receipts which had been enclosed with the writ petition, I am of the view that there was no scope for the Municipality to proceed that too without any show cause.

8. In the light of the above, the order passed by the Executive Engineer (Civil), Building Department, Borough-XI, Kolkata Municipal Corporation, dated 3rd September, 2026, cannot be sustained and the same is set aside. As a sequel thereto, suspension of petitioners' certificate of enlistment also cannot be sustained, and the same is also set aside.

9. The writ petition is thus disposed of leaving it open to the Municipality to take steps in accordance with law, if so advised.

10. All parties are to act on the basis of server copy of this order duly downloaded from the official site of this Court.

(RAJA BASU CHOWDHURY, J.)