

(2013) 01 CAL CK 0063
In the Calcutta High Court
Case No : Writ Petition No. 18480 (W) of 2012

Jogeswar Bhattacharya and Another	Vs	APPELLANT
The Bhatpara Municipality and Others		RESPONDENT

Date of Decision : 17-01-2013

Acts Referred:

Constitution of India, 1950 — Article 220, 226
West Bengal Municipal Act, 1993 — Section 220

Citation : (2013) 01 CAL CK 0063

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Ziaul Islam, for the Appellant; Somnath Maitra for the Municipality and Mr. Soumya Jit Bhatta for the private Respondents, for the Respondent

Judgement

Jayanta Kumar Biswas, J.—The petitioners in this WP under art. 226 of the Constitution of India dated August 16, 2012 are alleging inaction on the part of the Chairman of the Bhatpara Municipality in that the Chairman has not considered the question of exercising power under art. 220 of the West Bengal Municipal Act, 1993 on the basis of their complaint dated July 13, 2012 (WP p.16). Advocate for the Municipality submits that for pendency of a litigation before the Civil Court the Chairman did not take any action in the matter, and that the petitioners will be informed immediately about the opinion of the Chairman. Advocate for the private respondents submits that the allegations made in the complaint are not acceptable, because the Civil Court has passed appropriate order.

2. The only allegation in this WP is that the Chairman did not take action on the basis of the complaint. The admitted position is that the Chairman did not respond to the complaint received by him as back as July 13, 2012.

3. He was under a statutory obligation to examine the question of steps under s. 220. If he was of the opinion that the allegations were not sufficient to take any step, then he ought to have informed the petitioners accordingly. By remaining

silent and indifferent he generated this unnecessary litigation. This Court is unable to appreciate this tendency to remain indifferent and inactive.

4. Advocate for the Municipality has been given an opportunity of considering whether the Chairman will file any opposition explaining why costs should not be imposed. Advocate has said that in his opinion it is not necessary to file any opposition. He has said that the Chairman will take necessary steps in the matter immediately.

5. Advocate for the private respondents submits that the validity of the exparte decree obtained by the petitioners against the dead father of the private respondents has been questioned by the private respondents at the execution stage. For these reasons, I dispose of the WP ordering as follows. Within a fortnight from the date this order is served, the Chairman shall pay the petitioners Rs. 100 costs and take steps for inspection of the premises in question and send written information to the petitioners and the private respondents about the opinion he forms. If proceedings are initiated, needless to say that they shall be disposed of giving the petitioners and the private respondents all reasonable opportunity of presenting their respective cases. Certified xerox.