

OFFICE OF THE HON'BLE LOKAYUKTA
WEST BENGAL
Standard Assurance Building (Ground Floor)
32, BBD Bag, Kolkata – 700 001.
Phone No. (033) 2986-1813.
Email : lokayukta2018@gmail.com

Case Reference No. : LWB/71/2025

ORDER SHEET

Order Date	Order No.	Order
30.03.2026	02	Anustup Datta, Asiana Apartment, 2nd Floor, Dr. Himangshu Gupta Path, Deshbandhupara, Siliguri, PO & PS – Siliguri, District – Darjeeling, PIN – 734 004. ... Complainant -Vs - Commissioner, Siliguri Municipal Corporation. ... Respondent. The report called for from the Sub-Divisional Officer in terms of Order dated 27.02.2026 is received today. Let the Report be kept on record. This case has been registered on the basis of a complaint received from the complainant, Anustup Datta. The complainant, in his complaint, alleges that the respondent Jagannath Das to whom a portion of a garage of a residential complex on Satyen Bose Road, Deshbandhupara, Ward No. 27, Siliguri, was let out for its use as parking space converted it into a Hair Cutting Saloon. The complainant also alleges that Siliguri Municipal Corporation (SMC), despite knowing the nature of the premises, illegally granted Trade Licence to Jagannath Das to carry on a business of Hair Cutting

		Saloon in a residential complex. He complains that despite repeated appeal made by him to the Commissioner, SMC, the Commissioner of SMC, by resorting to corrupt practices, has not taken any step as regards illegal issue of Trade Licence. As required u/s 9(2) of the West Bengal Lokayukta Act, 2003, the complaint is accompanied by an affidavit. On perusal of the complaint, this Forum thought it fit that before conducting a full-fledged investigation into the complaint, a preliminary enquiry should be conducted. Accordingly, this Forum held preliminary enquiry. During preliminary enquiry, the complainant, Anustup Datta has been examined as Witness No. 1. On consideration of the complaint and the deposition of the complainant this Forum, for the purpose of collecting more evidence, called for the Report as above from the Sub-Divisional Officer, Siliguri. The complainant deposes that his father Chandan Datta, since deceased, purchased a garage of 300 sq. ft. from the promoter, Roni Builders in the year 2013 and he let out a portion of his garage measuring 54 sq. ft. on the front side of the garage to the respondent, Jagannath Das for his use as garage. His father died in February, 2018. After the death of his father, he, on enquiry came to know that the respondent was carrying on a business of Hair Cutting Saloon in a portion of his father's garage let out to him for the purpose of garage only. After the death of his father, his mother, his sister and himself have brought a Suit in the Court of Learned Civil Judge (Junior Division), Siliguri against the respondent for his eviction from the premises on their reasonable requirement. He says that he made complaint with the Commissioner of SMC alleging that the respondent was using the premises as a Hair Cutting Saloon illegally instead of using the premises as a garage. Getting no reply to the complaint from the Commissioner of SMC, he made
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		appeal to the Commissioner continuously for redressal of his grievances, but to no effect. It appears from the Report received from the SDO that the SDO compiled two Reports – one received from the Commissioner, SMC and the another received from his Personal Secretary. In substance, the SDO primarily bases his Report on the Report submitted to him by the Commissioner of SMC. The Report of the Commissioner, <i>inter alia</i>, reads as under : <i>“Whereas it has been reported by Sri Anustup Datta that the residential building at the subject premises is being used for commercial purposes and that unauthorized construction has been carried out therein. Pursuant to the said complaint, an inspection was conducted by the Technical Team of the SMC on 19.02.2025. The Inspection Report was duly served upon the concerned parties prior to the hearing.</i> <i>Subsequently, hearing Notices dated 28.03.2025 and 16.04.2025 were issued to all concerned parties, directing them to appear on 07.04.2025 and 25.04.2025 respectively along with relevant documents including the approved Building Plan. Although, the parties appeared on the scheduled dates, hearings could not be conducted due to urgent official engagements.</i> <i>In the meantime, the then Commissioner, SMC, relinquished the charges as Commissioner on 11.08.2025 and the newly appointed Commissioner assumed charge of office on 02.09.2025.</i> <i>Thereafter, a fresh hearing Notice dated 14.11.2025 was issued, fixing 21.11.2025 for hearing. On the said date, the parties appeared and hearing was conducted in the presence of officials of the Building Cell. During the hearing, the complainant alleged unauthorized construction and illegal commercial use of the premises. The opposite parties submitted that a Civil Suit is pending before the Learned Court at Siliguri and sought time to produce relevant documents, which was allowed.</i> <i>Further, another hearing Notice dated 10.01.2026 was issued, fixing 28.01.2026 for hearing. On that date, the parties appeared and the matter</i>
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was heard in detail. The complainant reiterated the allegations and prayed for demolition of unauthorized construction and cessation of illegal use. The opposite parties submitted the civil disputes and an appeal are pending before the competent court.

Subsequently, upon consideration of the observations made by the Inspection Report dated 19.02.2025 submitted by the concerned Engineer of this office and in exercise of powers conferred under Section 272 and under Section 287 of the West Bengal Municipal Corporation Act, 2006, read with the relevant provisions of the West Bengal Municipal (Building) Rules, 2007, a Reasoned Order has been passed directing the opposite party to immediately cease the unauthorized commercial use of the parking floor and to demolish the unauthorized constructions carried out in deviation from the sanctioned Building Plan bearing no. 1251 dated 21.05.2008. It has further been directed that in the event of non-compliance, the said portion shall be liable to be sealed by the SMC. The opposite party has also been directed to dismantle and remove all such unauthorized constructions within the stipulated time at their own cost. It is further clarified that the said order has been passed strictly in accordance with the provisions of the West Bengal Municipal Corporation Act, 2006 and does not adjudicate upon the civil rights of the parties, which remain subject to determination by the competent court”.

As the relevant provisions of the West Bengal Lokayukta Act, 2003 suggest, the Lokayukta may conduct investigation into a complaint received from a citizen on the allegations of corrupt practices against a public servant/public functionary. Before conducting a full-fledged investigation, this Forum should hold a preliminary enquiry into the complaint which this Forum has undertaken. As the Report of the Commissioner, SMC submitted to the SDO, Siliguri, reveals, the erstwhile Commissioner, SMC, on receiving a complaint from the complainant directed the Technical Team of the Corporation to hold an inspection at the premises and in pursuance of such direction, the Technical Team submitted a Report on

		19.02.2025. The Report of the Technical Team was served upon the concerned parties prior to hearing. It appears that the erstwhile Commissioner by serving Notices dated 28.03.2025 and 16.04.2025 directed the parties to appear before him on 07.04.2025 and 25.04.2025 for hearing, but hearings could not be conducted due to urgent official works of the Commissioner. Meanwhile, the erstwhile Commissioner relinquished the charge of Commissioner on 11.08.2025 and the present Commissioner assumed charge of the office of Commissioner on 02.09.2025. After assuming charge, the present Commissioner by issuing Notice dated 11.11.2025 directed the parties to appear before him for hearing on 21.11.2025. During the hearing, the complainant made allegations against the respondent before him in the similar tune as he made in the written complaint. On the other hand, the respondent sought time to produce documents relating to Civil Suit pending in the concerned Court of Law. After consideration of the Report dated 19.02.2025 of the Technical Team and the submissions made by the parties, the Commissioner vide Order dated 18.03.2026 passed the directions as quoted above against the respondent. Now, the question is whether there is any need for a full-fledged investigation into the complaint and proceeding further towards recommendation. As reflected in the Report of the Commissioner, the Commissioner initiated the proceeding on the basis of the complaint received from the complainant and in course of such proceeding, the Technical Team of the SMC submitted its Report on Inspection at the premises in question, on 19.02.2025. Thereafter, the erstwhile Commissioner, before he relinquished his office on 11.08.2025, heard the proceeding and fixed the proceeding on 07.04.2025 and 25.04.2025 for hearing. Thereafter, the present Commissioner, after assuming charge of the office of Commissioner on 11.08.2025, heard the parties on
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		21.11.2025. However, as it goes, the present Commissioner remained silent as regards the further progress of the proceeding. However, after this Forum called for a Report from the SDO, Siliguri, he sprung up from the deep silence and by Order dated 23.03.2026 directed the opposite party to cease the unauthorized commercial use of the parking floor of the premises immediately, failing which the parking space used by him would be sealed. Besides, the Commissioner directed the opposite party to dismantle/remove all the unauthorized construction which are contrary to the sanctioned Building Plan dated 21.05.2008 by 10.04.2026 at his own cost. In view of the above, this Forum on consideration of the entirety of the circumstances, thinks that there is no justification to proceed further with this case alleging corrupt practices against the Commissioner, SMC. Accordingly, the case is closed and the complaint stands disposed of. Let a copy of this Order be sent to the complainant for his information. Communicate a copy of this Order to the Principal Secretary, Urban Development & Municipal Affairs Department for information of the State Government. Sd/- Justice Rabindranath Samanta Hon'ble Lokayukta
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