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Case Reference No. LWB/71/2025

ORDER SHEET

Order Date	Order No.	Order
10..08.2026	04`	Anustup Datta, Asiana Apartment, 2nd Floor, Dr. Himangshu Gupta Path, Deshbandhupara, Siliguri, PO & PS – Siliguri, District – Darjeeling, PIN – 734 004. ... Complainant -Vs - Mr. Vir Vikram Rai, Commissioner, Siliguri Municipal Corporation, Bagha Jatin Road, P.O. – Siliguri, Dist. – Darjeeling, PIN – 734001. ... Respondent. The explanation in writing received from the Commissioner, Siliguri Municipal Corporation be kept on record. The complainant by filing a complaint dated 15.07.2026 in this case alleges that despite the order of the Commissioner, Siliguri Municipal Corporation directing Jagannath Das of Satyen Bose Road, Deshbandhupara, Ward No. 27, Siliguri to cease unauthorized commercial use of the parking floor of the premises by running a Hair Cutting Saloon and dismantle the same, he is still carrying on commercial activities illegally at the residential complex.

		The complainant complains that the Commissioner, Siliguri Municipal Corporation has wilfully failed to perform his duties to close the illegally carrying out business of a Hair Cutting Saloon at the aforesaid premises by Jagannath Das. On consideration of the complaint supported by affidavit, this Forum vide order dated 20/07/2026 directed Mr. Vir Vikram Rai, Commissioner , Siliguri Municipal Corporation to explain in writing as to why an enquiry shall not be conducted into the complaint of the complainant against him within Fifteen(15) days from the date of the communication of the order. The Commissioner, Siliguri Municipal Corporation submits the explanation in writing in compliance of the order dated 20/07/2026. Before this Forum deals with the explanation of the Commissioner, Siliguri Municipal Corporation, it will be pertinent to narrate the background facts which led to the filing of the previous complaint in November 2025 registered as Case No.LWB/71/2025. The complainant in his previous complaint alleged that 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. He also alleged that Siliguri Municipal Corporation, 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 complained that despite repeated appeal made by him to the Commissioner, Siliguri Municipal Corporation, the Commissioner, by resorting to corrupt practices, has not taken any step as regards illegal issue of Trade Licence. This Forum, by order dated 27.02.2026, directed the Sub-Divisional Officer, Siliguri to submit a report on the
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		complaint of the complainant after holding an enquiry by 30.03.2026. In compliance thereof, the Sub-Divisional Officer submitted a report in detail within the stipulated time. The report of the Sub-Divisional Officer compiled two reports - one received from the Commissioner, Siliguri Municipal Corporation and the another received from his Personal Secretary. In substance, the Sub-Divisional Officer primarily bases his report on the report submitted to him by the Commissioner, Siliguri Municipal Corporation. 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</i>
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		<i>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 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.</i> <i>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”.</i> <i>In view of the report as above, this Forum, vide order dated 30.03.2026, disposed of the case recording observation therein, that there was no justification to proceed further with the case alleging corrupt practices against the Commissioner, Siliguri Municipal Corporation.</i> <i>As per the relevant provisions of the West Bengal Lokayukta Act, 2003, the Lokayukta may conduct preliminary</i>
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		enquiry or investigation in full-fledged manner into a complaint alleging corrupt practice or abuse of power or wilful failure to perform duties against a public functionary or a public servant. As stated above, the complainant in the complaint on hand alleges that the Commissioner, Siliguri Municipal Corporation has wilfully failed to perform his duties to close the illegally carrying out business of a Hair Cutting Saloon at the aforesaid premises by Jagannath Das. The Commissioner, Siliguri Municipal Corporation in his explanation submits that the Commissioner, by passing a reasoned order dated 18.03.2026 directed the opposite party Jagannath Das to immediately cease the unauthorized commercial use of the parking floor and to demolish the unauthorized construction carried out in deviation from the sanctioned building plan. But, the order dated 18.03.2026 could not be executed because of promulgation of Model Code of Conduct for the West Bengal Legislative Assembly Election, 2026 with effect from 16.03.2026. After the Model Code of Conduct was withdrawn on 07.05.2026, Siliguri Municipal Corporation became legally competent to proceed with the execution of the demolition order dated 18.03.2026. By a letter dated 27.06.2026, he requested the Police Commissioner, Siliguri Metropolitan Police, to deploy adequate Police Personnel on 03.07.2026 to carry out the demolition programme. But, due to non-availability of Police Force, the order could not be executed on 03.07.2026. By a letter dated 08.07.2026, he requested the Commissioner of Police, to deploy a Police Force on 18.07.2026 to carry out the demolition programme, but, the demolition could not be carried out due to non-availability of Police Force. Subsequently, by a letter dated 20.07.2026, he requested the Commissioner of Police to deploy adequate Police Force on 25.07.2026 to carry out the demolition programme. On 25.07.2026 adequate Police Force were available and he
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		successfully carried out the demolition of unauthorized construction at the aforesaid premises. Because of such reasons, the demolition order dated 18.03.2026 could not be executed in time. But, there was no willful failure on his part to discharge his duties to carry out the demolition order dated 18.03.2026. He submits that there has been no inaction, negligence, arbitrariness or dereliction of statutory duties on his part and as such, he flatly denies all the allegations as made in the complaint against him. On consideration of the report and all the annexures thereto this Forum finds that there was no wilful failure on the part of the Commissioner, Siliguri Municipal Corporation to discharge his statutory duties to execute the order of demolition of the illegal construction raised by Jagannath Das to carry out a business of Hair Cutting Saloon. In view of the above, the explanation in writing submitted by the Commissioner, Siliguri Municipal Corporation is accepted. This Forum feels that there is no justification to initiate any enquiry against the Commissioner, Siliguri Municipal Corporation on the basis of the complaint dated 15.07.2026 filed by the complainant. With the aforesaid observation, the complaint filed by the complainant is disposed of. Communicate this order to the complainant as well as the Commissioner, Siliguri Municipal Corporation immediately. Let a copy of this order be sent to the State Government through the Chief Secretary, for information. Sd/- Justice Rabindranath Samanta Hon'ble Lokayukta
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