

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.741 of 2023**

Sri Biswajit Das

....Petitioner(s)

Versus

Agartala Municipal Corporation and Anr.

....Respondent(s)

For the Petitioner(s)	:	Mr. T. Debbarma, Advocate
For the Respondent(s)	:	Mr. A. Bhaumik, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH
Order

05/12/2023

Heard Mr. T. Debbarma, learned counsel appearing for the petitioner.
Also heard Mr. A. Bhaumik, learned counsel appearing for the respondents-
AMC.

The petitioner is running a business of marketing and selling of KTM motorcycles in Gurkhabasti, VIP road, Agartala. On 29.11.2023, the competent authority of AMC had issued a show-cause notice upon the petitioner, which is reproduced hereunder, for convenience:

“AGARTALA MUNICIPAL CORPORATION
NORTH ZONE
SHYAMALI BAZAR, AGARTALA”

No. F.52/TL/NZ/AMC/2013/7966-7969 Dated, Agartala the 29th Nov, 2023.

NOTICE

WHEREAS, it is noticed that Sri Biswajit Das, Proprietor, KTM Showroom, Gurkhabasti is causing huge wastage of drinking water in cleaning/washing of the building and other chores in the place of trade i.e. KTM showroom on regular basis;

AND WHEREAS, the waste-water flows/running down to the Road(VIP) causing nuisance, hitches to the pedestrian causing traffic issues as well as damage to the public road;

NOW THEREFORE, Sri Biswajit Das, Proprietor, KTM showroom, Gurkhabasti, Agartala is hereby being asked to Show Cause as to why the trade license issued to him for carrying out the trade of KTM shall not be cancelled for causing public nuisance.

His reply should reach this office within 48 hours from the date & time of receipt of this notice failing to which the Trade license shall be cancelled without any further notice

It is further informed that the Trade license bearing No. 2/16/270 shall remain SUSPENDED until the finalization of the proceeding being brought up under this notice and therefore, Sri Biswajit Das Proprietor, KTM showroom is hereby directed to keep the Showroom under lock & key until further order.

To

Shri Biswajit Das,

S/o. Sri Safal Ch. Das,

Proprietor, M/s. Sri Krishna Enterprise, (KTM Showroom)

Gurkhabasti, Kunjaban, Agartala

-Sd illegible

Assistant Municipal Commissioner

Agartala Municipal Corporation (North Zone)"

After receipt of the show-cause notice on 29.11.2023, the petitioner had submitted his reply on 01.12.2023.

Mr. Bhaumik, learned counsel for the respondents-AMC has submitted that the proceeding is going on.

I have considered the submissions of learned counsel appearing for the parties.

It is evinced from the order dated 29.11.2023 itself that before 48(forty eight) hours, the competent authority of AMC had directed the petitioner to close his business. The competent authority of AMC, in my opinion, would have given him an opportunity of 48(forty eight) hours to reply and then to proceed in accordance with law.

It is submitted by Mr. Debbarma, learned counsel for the petitioner that for last several years the petitioner has been running similar business at the same place, but the authority concerned never raised any objection regarding the nature and character of the business of the petitioner.

In view of this, in my opinion, a reasonable opportunity must be given to the petitioner to place his own case before the authority concerned of AMC but, *ex facie* notice reveals that before completion of 48(forty eight) hours, the respondent asked the petitioner to put his showroom under lock-and-key. This is utter violation of the principles of natural justice. Natural justice demands fair play and fairness in action and each and every action must be seen and visible.

It is desirable that the petitioner had to be given an opportunity of being heard before passing a direction of putting his showroom under lock-and-key.

In view of this, the show-cause notice dated 29.11.2023 is necessary to be interfered with.

In the meantime, the petitioner, if he desires, can open the showroom from today itself. The respondents-AMC may fix a date of hearing within next 7(seven) days when the petitioner shall place his case and make his submissions before the authority concerned from today and thereafter, within the next 7(seven) days the competent authority of AMC may pass necessary order on the subject in issue in accordance with the provisions of AMC Act and other related laws. Till then, the petitioner shall not be disturbed. However, the petitioner is directed not to make any nuisance as alleged in the show-cause notice dated 29.11.2023 in the interest of public.

According to me, since the order dated 29.11.2023 is *ex facie* illegal and violative of the principles of natural justice, the said order should not exist and is hereby set aside.

In view of the above, the instant writ petition stands disposed in the above terms.

Pending application(s), if any, also stands disposed.

JUDGE

Snigdha

SANJAY GHOSH
Digitally signed by
SANJAY GHOSH
Date: 2023.12.05
16:09:20 +05'30'