

GAHC010068152023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1774/2023

V R L LOGISTICS LIMITED
REP. BY ITS AREA MANAGER, SRI SIDDALINGAYYA SHAMBHULINGAYYA
VASTRAD, HAVING ITS BRANCH OFFICE NEAR RAHUL WAY BRIDGE, PUB
BARAGAON, GARCHUK, NATIONAL HIGHWAY, GUWAHATI, PIN- 781035

VERSUS

GUWAHATI MUNICIPAL CORPORATION AND 4 ORS
REP. BY ITS COMMISSIONER, G.M.C.H. ROAD, BHANGAGARH, GUWAHATI,
PIN- 781005, KAMRUP (M), ASSAM

2:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
G.M.C.H. ROAD
BHANGAGARH
GUWAHATI
PIN- 781005
KAMRUP (M)
ASSAM

3:THE JOINT COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI
PIN- 781001
KAMRUP (M)
ASSAM

4:THE ASSISTANT ENFORCEMENT OFFICER
GUWAHATI MUNICIPAL CORPORATION
OPP. DISTRICT AND SESSION JUDGES COURT
PANBAZAR

GUWAHATI
PIN- 781001
KAMRUP (M)
ASSAM

5:MUNINDRA MAHANTA
ASSTT. ENFORCEMENT OFFICER
GUWAHATI MUNICIPAL CORPORATION
OPP. DISTRICT AND SESSION JUDGES COURT
PANBAZAR
GUWAHATI
PIN- 781001
KAMRUP (M)
ASSA

Advocate for the Petitioner : MR T N SRINIVASAN

Advocate for the Respondent : SC, GMC

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 03.04.2023

Heard Mr. M.K. Choudhury, learned senior counsel assisted by Ms. N. Dutta, learned counsel for the petitioner. Also heard Mr. S. Bora, learned standing counsel GMC for respondent Nos. 1 to 4.

2. The petitioner's counsel submits that the petitioner is a Company engaged in the business of transportation of goods. The petitioner's Company has an office at Athgaon, Guwahati, comprising of 5 (five) rooms in one building and the same is being run on the strength of a GMC Licence dated 07.04.2022. He submits that while 2 (two) rooms are run for administrative purposes, the rest 3 (three) rooms are utilized as Godowns for storage of parcels, which are to be transported from one place to another. He submits that on 21.03.2023, the

respondent No. 5 came to the petitioner's office and without any reason, sealed 3 (three) of the Godowns. The learned counsel submits that no notice was issued to the petitioner or reasons given for sealing the Godowns. He submits that the sealing of the 3 (three) Godowns of the petitioner by the GMC had been done without issuing any notice to the petitioner or intimating the reason for such action.

3. The petitioner's counsel submits that the petitioner has been informed by the Landlord, to vacate the rooms that are occupied by the petitioner, as the Landlord is in need of the rooms for bonafide reason. He submits that the petitioner, who is in the business of transportation of goods, has put 344 parcels in the Godown, which contains perishable items. He submits that unless the petitioner is able to take out the parcels from the Godown, irreparable injury would be caused to the petitioner.

4. On the other hand, Mr. S. Bora, learned counsel for the GMC submits that no licence had been given to the petitioner, for utilising the 3 (three) rooms as Godowns and as such, no notice was required to be issued to the petitioner. He also submits that as the petitioner has been utilising the Godowns without having any licence for utilising the same as Godowns, penalty would have to be paid by the petitioner.

5. Mr. S. Bora, learned counsel for the GMC has given copies of 3 (three) notices dated 31.03.2023 to the petitioner's counsel today, which requires the petitioner to show cause within 7 (seven) days, as to why appropriate action should not be initiated against him, for running a Godown without obtaining

permission, as provided under the Guwahati Municipal Act, 1969. The notices dated 31.03.2023 also states that the petitioner is liable to pay penalty of Rs. 5,000/- per day, for running a business in the Godown without a trade licence.

6. I have heard the learned counsels for the parties.

7. The pleadings show that the petitioner had only taken a licence for running an office and not for running Godowns. The Tenancy Agreements dated 21.04.2022 and 01.07.2022 executed between the petitioner and the Landlords of the Godown, clearly show that the petitioner had taken 4 (four) out of the 5 (five) rooms, for the purpose of running a Godown, while the 5th room was for an office. The documents in the writ petition show that the petitioner had been given the licence for running a transport office by the GMC.

8. Section 180 of the Guwahati Municipal Corporation Act, 1971 (herein after referred to as the '1971 Act') states that every person, who exercises or carries in the city any of the professions, trades or callings indicated in the 4th Schedule, shall annually take out a licence before the first day of April in each year or within 1 (one) month of his taking out the profession, trade or calling, as the case may be, and pay for the same, such fee as it mentioned in that behalf in the Schedule.

9. The trade in Class-I category in Annexure-1 of the 4th Schedule to Section 180 of the 1971 Act includes "independent Godown". Thus, a reading of Annexure-1 of the 4th Schedule to Section 180 of the 1971 Act indicates that a licence would have to be taken out for running a Independent Godown. In the

present case, no licence appears to have been taken by the petitioner for running a Independent Godown.

10. As per the pleadings in the writ petition, the petitioner has been running Godowns, while having taken a licence from the GMC for running an office.

11. In this case, though it would have been proper for the GMC to have issued a notice to the petitioner prior to sealing of its Godowns, the GMC has given the notices dated 31.03.2023, only after sealing of the Godown was done on 21.03.2023. The writ petitioner approached this Court on 27.03.2023.

12. In view of the fact that there is no dispute that the petitioner does not have any licence for a Godown, this Court is of the view that the rule of post decisional hearing, would in the facts of this case, be considered to be sufficient compliance with natural justice.

13. As the petitioner has been given 7 (seven) days' time to submits reply to the notices dated 31.03.2023, this Court is of the view that nothing remains to be decided in this writ petition. The petitioner should accordingly submit his reply to the notices dated 31.03.2023 and the respondents should take a decision on the petitioner's reply immediately.

14. Keeping in view the fact that the petitioner has stated that there are perishable items in the Godowns, this Court directs the GMC to de-seal/open the Godowns of the petitioner, to enable the petitioner to deliver the properties in the Godowns to the recipients. Till a decision is taken by the GMC on the reply

to be submitted by the petitioner, the petitioner is directed not to run the Godowns, which had been sealed by the GMC.

15. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant