

21.12.2020
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RP Ct.04

WPA 6531 of 2020
Dr. Tarun Palit & Ors.
Vs.
The Municipal Commissioner, KMC & Ors.
With
IA: CAN/1/2020 (Old No. CAN 5287 of 2020)

Mr. Subir Sanyal
Mr. Nandalal Das

.... For petitioners

Mr. Alok Ghosh
Mr. Subhrangsu Panda

.... For KMC

Mr. Pranit Bag

.... For private respondents

Petitioners want quashing of trade licences/certificates of enlistment issued in favour of private respondents.

Mr. Sanyal, learned advocate appears on behalf of petitioners and draws attention to **order dated 27th February, 2020** passed in **WP 22921 (W) of 2019 (Jitendra Narayan Ray Sishu Seva Bhawan vs. The Director of Health Services & Ors.)**, by which another Bench (Sabyasachi Bhattacharyya J.) had set aside clinical establishment licences, being subject matter of that writ petition. He submits, in this writ petition his clients have sought quashing of six trade licences, five of which require clinical establishment licence for purpose of issuance. Certificate no.006302012285 is licence in respect of retail seller/supplier of non-food items, a medicine shop run by private respondents. This licence could not have been issued by the Corporation in favour of private respondents, who have no interest in the premises. They are claiming under a memorandum of understanding, which cannot be

basis for issuance of trade licence. He relies on following finding in said order, quoted below.

“The Memorandum of Understanding annexed to the present writ petition is merely an arrangement for joint control and management of the proposed hospital and cannot be deemed to confer any proprietorship rights on the private respondents.”

Mr. Ghosh, learned advocate appears on behalf of the Corporation and submits, five out of six licences have lapsed. The only licence renewed does not depend on applicant having clinical establishment licence. Mr. Bag, learned advocate appears on behalf of private respondents and submits, there is one other subsisting licence being no.006852012282. This is for office from where the nursing home is being managed. He prays for adjournment to obtain instruction and submit further.

On query from Court Mr. Ghosh submits, person in possession of space to carry on trade or business can apply for trade licence. If it is shown that the licensee is no longer in possession or entitled to carry on trade or business from the space, in respect of which the trade licence has been issued, the licence will then become non-operative.

Petitioners will approach the Corporation with their representation, based on the finding in said writ petition regarding their case of private respondents not being entitled to carry on trade or business in the premises in respect of trade licence no.006302012285 and 006852012282, if subsisting. The Corporation on receipt of the representation, accompanied with this order, will deal with it in giving petitioners and private respondents a hearing. The decision taken must be made known to them

within three weeks from date of receipt of the representation. It is made clear that position taken by the parties is that the other four trade licences, mentioned in prayer (c), stand lapsed.

Since affidavits have not been called for, allegations made in the writ petition cannot be deemed to have been admitted by respondents.

WPA 6531 of 2020 and the connected application are disposed of.

(Arindam Sinha, J.)