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W. P.A. 10616 of 2020

(Via Video Conference)

Budge Budge Company Ltd. & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Siddharta Banerjee
Mr. Niladri Khanra
... For petitioners.

Mr. Sumitra Dasgupta
Md. Hafiz Ali
... For respondent no. 2.

Mr. Santanu Kumar Mitra
Mr. Mirza Kamruddin
... For State.

Mr. Satyajit Talukdar
... For KMDA.

Mr. Banerjee, learned advocate appears on behalf of petitioners and submits, his clients are a jute mill. Access to the mill is by L.A. Daw Road. The Municipality once again has undertaken a project, to dig up the road, this time to lay sewer pipes. On earlier occasion coordinate Bench (Sanjib Banerjee, J.) had passed order dated 8th August, 2012 dealing with similar situation of access blocked to the mill, by directing access from alternative Moulana Azad Road. Relevant text of the order is reproduced below: -

“The grievance of the petitioners is that the primary access to the first writ petitioner’s manufacturing facility in Budge Budge has

been closed down for the purpose of laying pipes and the alternative access would not permit trucks to approach or get access to the petitioners' manufacturing facility.

The municipality was represented when the matter was taken up on August 7, 2012. It was submitted on behalf of the municipality that the main road had been temporarily closed for a public purpose since the pipes were for bringing water to the local residents. It was also submitted on behalf of the municipality that an alternative access to the petitioners' manufacturing facility was available.

An order was passed on August 7, 2012, directing an officer of the municipality to accompany the officer-in-charge of the relevant police station and an authorised representative of the first petitioner-company to inspect the alternative access and file a report. A report has been filed by the officer-on-special duty, in-charge of Water Works Department, Budge Budge Municipality, today. According to the report, trucks can approach the petitioners' manufacturing facility and get access thereto through Moulana Azad Road. In view of such report, the local police authorities, including the officer-in-charge of Budge Budge Police Station,

are directed to ensure that the access to the manufacturing facility is left unimpeded so that trucks can enter the petitioners' manufacturing facility through Moulana Azad Road. The petitioners say that at the meeting held between the representative of the municipality and the officer-in-charge of the local police station together with the petitioners' representative, the petitioners have offered to pay the expenses for deploying personnel to ensure that the said access is left unimpeded. The officer-in-charge of Budge Budge Police Station should inform the petitioners of the amount that they need to deposit on such account."

He submits, since that time and now there has been encroachment on Moulana Azad Road. Overhead there are hanging wires. It is not possible to have access to and from the mill for trucks bearing goods using that road.

Mr. Mitra, learned advocate appears on behalf of State and submits, the project is for the betterment of the locality and must be executed. He causes handing up of communication dated 17th December, 2020 made by Inspector-in-Charge, Budge Budge Police Station to office of Government Pleader. Mr. Mitra clarifies that this communication encloses intimation dated 21st

November, 2020 made by Budge Budge Municipality to petitioners. Following from the communication is reproduced below: -

“On enquiry I have contacted with the respondent no-3, 4, 5 and 6 and enquired the matter and it revealed that a project to make sewerage is under construction of five (05) nos. Man-holes/pit works, connection with Lifting Station (LS-9) and Jack-Push Mechanism under the Railway Track from the end of Budge Budge Municipality. In this regards a letter was also issued from the end of Chairperson, Board of Administrator, Budge Budge Municipality to 1) Mr. J. K. singh, President M/S Budge Budge Company Ltd. with an intimation that A.L. Daw Road will be closed/blocked on and from 24.11.2020 to 23.12.2020 for the said project and to use Moulana Azad Road as bypass/alternative road. The matter was also intimated to us from the end of Budge Budge Municipality which is annexed herewith.

However we are ready to comply the order which will be passed by the Hon’ble High Court in due course.”

Mr. Mitra submits further, there is no mention of encroachment in the communication and therefore the position is that Moulana Azad Road can be used as

alternative road for access of trucks to and from the mill. Mr. Dasgupta, learned advocate appears on behalf of the Municipality and submits, this sewerage project is essential and must be undertaken. The mill, for its purpose, must use alternative Moulana Azad Road.

Court appreciates necessity of sewage project undertaken by the Municipality. However, running of the mill is also important. There is a precedent by said order dated 8th August, 2012, in dealing with similar situation. Court relies on the Police and submission of State that Moulana Azad Road is alternative access road against assertions that such road is encroached upon and has overhead hanging wires. State will vindicate reliance on it and ensure that Moulana Azad Road can be accessed by trucks. The administration, which includes State and the Municipality, will cause trial run, on notice to petitioners, regarding user of the alternative road by trucks before closing down A.L. Daw Road. In event the administration relies on their schedule of blocking A.L. Daw Road between 24th November, 2020 to 23rd December, 2020, A.L. Daw Road should be available for use from 24th December, 2020. Otherwise, above direction must be complied with.

The writ petition is disposed of as above. The communication be kept on record.

(Arindam Sinha, J.)