

AD. 33.
January 13, 2021.
MNS.

W. P. A. 627 of 2021
(**Via video conference**)

Ananta Sardar and another
Vs.
The Govt. of West Bengal and others

Mr. Sandip Mandal

... for the petitioners.

Mr. Debasish Ghosh

...for the respondent-authorities.

Mr. Jayed Hossain

...for the respondent nos. 15 to 24.

The petitioners have moved this Court with the grievance that the petitioners, despite having been granted temporary licence for retail sale of foreign liquor for consumption on the concerned premises, such business could not be run due to the unlawful activities of the hooligans who ransacked the restaurant-cum-bar run by the petitioners and destroyed the property therein.

The petitioners lodged complaint on that score and sought regularization/renewal of the temporary licence by its representation to the respondent-authorities dated July 1, 2019.

However, the said representation was not considered, according to the petitioners, resulting in the present writ petition where the petitioners seek police protection as per SOP to run the business of the petitioners and for a regularization/renewal of the temporary excise licence.

Learned counsel for the petitioners places reliance on an order dated July 15, 2020 passed by the Sub-Divisional Magistrate, Diamond Harbour, District- South 24 Parganas in Case No. 09/Misc/SDO/DH of 2020-21, whereby the Officer-in-Charge of the Magrahat Police Station was directed to look into the matter with due impetus and render necessary police assistance as per SOP to run the business by the applicants (present petitioners) peacefully and smoothly.

Learned counsel appearing for the respondent-authorities as well as the private respondents point out that the writ petition itself states, at paragraph- 4 thereof, that the temporary licence of the petitioner expired on July 8, 2019. As such, it is submitted by the respondents, no order can be passed to protect the purported rights of the petitioners, which have ceased to exist.

That apart, it is argued that the so-called representation of the petitioner, annexed at page – 20A of the writ petition, was not a valid application for renewal of licence.

It appears from the materials on record that representations were made by the petitioners to different authorities for the renewal/regularization of the temporary licence of the petitioners.

However, mere representations by the petitioners cannot operate as an automatic extension of the temporary licence of the petitioners, which expired as long back as on July 8, 2019, as per the admission in the writ petition itself.

It is beyond the charter of the writ court to arbitrarily direct the authorities to renew the licence of the petitioners for retail sale of foreign liquor for consumption on the premises and/or to direct grant of fresh licence to the petitioners.

The order dated July 15, 2020 was palpably void in view of the admission of the petitioners themselves in the writ petition, that the temporary licence of the petitioners expired on July 8, 2019, since the premise of the order was to grant police help for the purpose of protecting

the rights of the petitioners to run the business, which were non-existent at the relevant juncture and for that matter, at any point of time after July 8, 2019.

In such circumstances, there is no scope for interference in the writ petition. W. P. A. 627 of 2021 is dismissed without any order as to costs.

However, such dismissal shall not preclude the petitioners from approaching the appropriate authorities for issuance of a fresh licence for the purpose of retail sale of foreign liquor. If such application is made, the authorities shall consider the same without being influenced in any manner by any of the observations made herein.

Since no affidavits were invited from any of the respondents, it is deemed that the respondents, have not admitted any of the allegations made in the writ petition.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

