

01
24.03.2021.
d.p.

**W.P.A 1384 of 2021
(Via Video Conference)**

**Vishal Prasad
-versus
The State of West Bengal & Ors.**

**Mr. Md. Bani Israil,
Mr. Kanchan Gupta.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka.
...For the HMC.**

**Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas.
...For the State.**

The petitioner prays for a direction upon the Howrah Municipal Corporation for cancellation of the Certificate of Enlistment issued in favour of the private respondent.

The petitioner claims that he is the landlord of the premises in question and the private respondent ought to have obtained a 'No Objection Certificate' from him prior to making the application for issuance of the Certificate of Enlistment.

The Howrah Municipal Corporation submits that there is no provision requiring the occupier/tenant of premises to obtain a 'No Objection Certificate' from the landlord/owner prior to making the application for issuance of the Certificate of Enlistment.

The petitioner has also failed to show any provision of law, which requires the Corporation to take

into consideration the 'No Objection Certificate' issued in favour of the applicant for the purpose of issuance of the Certificate of Enlistment.

The learned advocate appearing for the private respondent submits that there is a valid Certificate of Enlistment issued in his favour by the Howrah Municipal Corporation and he is carrying on business strictly in accordance with the said license.

It has been submitted by the petitioner as well as the private respondent that a civil proceeding is pending in between the parties before the learned Civil Court in the district judiciary. In the event the landlord/owner succeeds in the civil proceeding, necessary consequential steps shall be taken by the Howrah Municipal Corporation.

This Court in *Venode Kumar Jalan -vs- Calcutta Municipal Corporation & Ors.* reported in 1987(II) CHN 219 held that if a person is found to be in occupation of a property and running a business, his prayer for renewal of license cannot be refused. Such license is subject to any decision of the Civil Court.

In view of the aforesaid, the prayer of the petitioner for cancellation of the Certificate of Enlistment does not arise.

The instant writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)