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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 2638 of 2020
(Via Video Conference)**

**Manik Dutta
-vs.-
The State of West Bengal & Ors.**

Mr. Saptarshi Guha,
Mr. Pradyut Malakar
...for the petitioner

Mr. Amal Kumar Sen,
Mr. Sabyasachi Mondal
...for the C.S.T.C.

The petitioner was granted a licence by the C.S.T.C. (Calcutta State Transport Corporation) to run a canteen from the Garia Depot of the said Corporation, temporarily on payment of certain amount per month. It was stipulated in the letter granting such licence, dated November 20, 2015, that the said licence would operate from November 01, 2015 either for one year or on issuance of notice of termination, whichever was earlier.

Learned counsel for the petitioner submits that the petitioner has remained in occupation of the said canteen and has been operating business therefrom even after the expiry of one year from the date of issuance of the licence and has been paying occupation

charges regularly for doing so, which was duly accepted by the C.S.T.C. Learned counsel further submits that such acceptance of occupation charges beyond the period of the licence has conferred a right of occupation on the petitioner. The C.S.T.C., it is argued, is barred by estoppel due to its own conduct in accepting the occupation charges, from evicting the petitioner without due process of law.

Learned counsel appearing for the petitioner places reliance on a judgment of the Supreme Court, dated July 05, 2002, rendered in *B.L. Sreedhar & Ors. vs. K.M. Munireddy (dead) & Ors.*, where the Supreme Court elaborated the principle of estoppel. It was held therein that, if a man either by words or by conduct has intimated the consent to an act which has been done and that he will not offer any opposition to it, although it could not have been lawfully done without his consent, and he thereby induces others to do that which they otherwise might have abstained from, he cannot question legality of the act he had sanctioned to the prejudice of those who have so given faith to his words or to the fair inference to be drawn from his conduct.

It is, thus, submitted that the impugned notice dated January 28, 2020, asking the petitioner to vacate the space where he is running his canteen, is *de hors* the law and violates the principles of natural justice. It

is further argued that the said action violates the right to life of the petitioner, as enshrined in Article 21 of the Constitution of India.

Learned counsel appearing for the C.S.T.C. submits at the outset that the payments, alleged by the petitioner, were paid only up to November, 2019. That apart, learned counsel controverts the contentions of the petitioner and argues that, since the petitioner entered the premises on the basis of a licence, the said jural relationship between the parties did not change character merely by efflux of time.

Although the principle laid down in the cited judgment is well-settled and cannot be refuted, the doctrine of estoppel/waiver does not fit in the facts of the present case. In the instant *lis*, there was no act on the part of the C.S.T.C. to indicate that it would not offer an opposition to the conduct of the petitioner in continuing to operate his canteen at the designated space for all time to come. Moreover, the question of estoppel does not arise since, as rightly argued by learned counsel for the C.S.T.C., it is well settled that once a person enters a premises as a licensee, he/she remains a licensee till evicted. In the absence of any further circumstantial evidence of alteration of the jural relationship between the parties, mere payment and acceptance of occupation charges during a period subsequent to the expiry of the licence, could not

partake of a character higher than the original legal status of the petitioner vis-à-vis the disputed property. There is nothing on record to show that any tenancy was granted, nor has the same been pleaded by the petitioner. It is evident from the pleadings and the materials-on-record that the jural relationship between the parties was that of a licensor and licensee from the inception.

As such, there is no legal or fundamental right of the petitioner in the first place to have been infringed by the impugned notice, dated January 28, 2020, of the C.S.T.C.

Hence, the present challenge must fail.

However, keeping in view the plight of the petitioner in respect of his only livelihood, which was earned by operating the canteen-in-question, it is only appropriate that the C.S.T.C. considers, in accordance with law, granting the petitioner a fresh licence in the event a canteen is required in the newly developed structure coming up at the site where the petitioner has been operating his canteen during the relevant period.

Learned counsel for the C.S.T.C., at this juncture, submits that there may not be any scope of operating a similar canteen, as previously run by the petitioner, at the newly developed structure and a tender process is already underway for allocation of spaces in the proposed building.

As such, it is submitted that there is no further scope of granting any opportunity to the petitioner to run a fresh canteen.

In view of the aforesaid considerations, W.P.A. No. 2638 of 2020 is dismissed without, however, any order as to costs.

However, this order will not preclude the petitioner from approaching the C.S.T.C. for consideration of grant of any further scope of business to the petitioner in any of the facilities of the C.S.T.C.

If so approached, the C.S.T.C. will decide on the same upon consideration in accordance with law.

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

(Sabyasachi Bhattacharyya, J.)