

Court No. 24

16.04.2021

(Item No. 20)

(AB)

W.P.A 4322 of 2020
(via video conference)

Luv Kumar Singh

vs

The State of West Bengal & Ors.

Mr. Dyutiman Banerjee

..... for the petitioner

Mr. N. C. Bihani

..... for Howrah Municipal Corpn.

Mr. Sovan Bera

Ms. Puja Beriwal

..... for respondent No. 7

The petitioner prays for cancellation of the certificate of enlistment issued in favour of the private respondent, Ramchandra Rajak in the premises No. 43, Madan Biswas Lane, Police Station Golabari, District – Howrah, Pin – 711 106.

The first contention of the petitioner is that the certificate of enlistment has been obtained without the ‘No Objection Certificate’ issued by the owner of the premises. The second allegation is that the building in question has been sanctioned as a residential building. The private respondent is running a business therefrom without the user of the premises being changed. The same is not permissible.

The petitioner raised objection before the Howrah Municipal Corporation by a letter dated 04.12.2019 and alleges that the said representation has not been considered by the respondent authority till date.

The private respondent submits that trade license was obtained after submission of the rent receipt. It has further been submitted that the business is being run from the said premises for a very long period of time.

The learned advocate appearing on behalf of the Howrah Municipal Corporation submits that there is no provision under the Howrah Municipal Corporation Act, 1980 for cancellation of a trade license. It has further been submitted that there is no requirement for production of 'No Objection Certificate' from the landlord for the purpose of obtaining a certificate of enlistment.

Upon hearing the submissions made on behalf of the parties, the Court is not satisfied with the submission of the petitioner that the 'No Objection Certificate' of the landlord is required to be submitted for the purpose of issuance of the certificate of enlistment.

This Court on repeated occasions held that the 'No Objection Certificate' of the landlord is not an essential document required for the purpose of issuance of the certificate of enlistment. As long as the tenant is in possession of the tenanted premises it will be open for him to run business from the tenanted premises, provided the same is permissible in law.

The submission of the petitioner is that the building has been sanctioned for residential use. No document has been placed before this Court to show that the building has been sanctioned for residential use only and commercial activity there from is not permitted.

Accordingly, the competent officer of the Howrah Municipal Corporation is directed to enquire into the matter and take a decision with regard to the representation filed by the petitioner on 4th December, 2019 praying for cancellation of the certificate of enlistment on the ground of using the residential building for commercial purpose.

The Howrah Municipal Corporation shall only restrict their consideration with regard to the allegation of the petitioner that the building was sanctioned for residential purpose only.

If the Howrah Municipal Corporation is of the opinion that commercial activity is not specifically barred from being carried out from the said premises, then the Howrah Municipal Corporation shall pass necessary orders in response to the representation filed by the petitioner.

The Howrah Municipal Corporation shall decide the matter after giving an opportunity of hearing to the petitioner and the private respondent at the earliest, but positively within a period of sixteen

weeks from the date of communication of a copy of this order and communicate the reasoned order to the parties immediately thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)