

12.07.2021
Item Nos.5
and 6.
Crt.No.11
K.B.

M.A.T. 600 of 2021
with
I.A. No. CAN 1 of 2021

**Jayasri Distributor Enterprise
Private Limited**

-vs-

Gautam Saha and ors.
with

M.A.T. 601 of 2021

with

I.A. No. CAN 1 of 2021

**Jayasri Distributor Enterprise
Private Limited**

-vs-

Gautam Saha and ors.
(Via video conference)

Mr. Jayjit Ganguly
Mr. Arindam Paul

... For the appellant
in both the matters.

Mr. Ranajit Chatterjee
Mr. Subhrangsu Panda

... For the KMC
in both the matters.

Mr. Probal Mukherjee
Mr. Sourav Roy

... For the respondents.

Mr. Debasish Ghosh
Mr. Subhajit Roy

... For the respondent No.1.

The order impugned in these two appeals has been already dealt with by the final order of this Court in two connected appeals, being MAT 598 of 2021 and MAT 599 of 2021.

All four appeals are directed against back-to-back orders of the Hon'ble Single Bench in the same writ

petition, i.e. WPA 10625 of 2021 respectively dated 24th of June, 2021 and 25th of June, 2021.

Mr. Ganguly, Learned Counsel, appearing for the appellants in MAT 600 of 2021 and MAT 601 of 2021 with their connected applications submits that there is a singular point of difference between the first two appeals being MAT 598 of 2021 and MAT 599 of 2021 and the present appeals. The singular point of difference is that the municipal licence of the present appellant relates to dealership in spare parts and not of storage and supply of oxygen.

It is thus submitted by the appellant that the drastic closure of the business and the cancellation of the licence of the appellant by the Hon'ble Single Bench without the complaint at its roots touching upon the appellant, i.e. the supply and storage of hazardous oxygen cylinders, the appellants are entitled to complete restoration of their licence and business.

Mr. Probal Mukherjee, learned Senior Counsel, appears for the Private Respondent to this appeal who was the appellant in MAT 598 of 2021 and MAT 599 of 2021(supra).

The Respondents/KMC is represented by Mr. Ranajit Chatterjee, Learned Counsel and, the writ petitioner/the Private Respondents, are represented by Mr. Debasish Ghosh, Learned Counsel.

Having considered the gamut of submissions as well as the materials placed, this Court is of the view that the appellant in MAT 600 of 2021 and MAT 601 of 2021 is entitled to a parity of directions as directed by the order dated 12th July, 2021 in MAT 598 of 2021 and MAT 599 of 2021.

However, at the same time, it is made clear that, as directed in MAT 598 of 2021 and MAT 599 of 2021, the Commissioner, KMC shall be equally entitled to examine the nature of the business of the appellant in the present appeal, i.e. MAT 600 of 2021 and MAT 601 of 2021, claiming to be dealing in spare parts alone excluding any nexus with the supply and storage of oxygen gas cylinders. To such extent the order dated 12th July, 2021 in MAT 598 of 2021 and MAT 599 of 2021 shall equally bind the present appellant.

It is accordingly directed that the appellant in the present appeals, i.e. MAT 600 of 2021 and MAT 601 of 2021, shall be only entitled to restoration of his licence and de-sealing of the business premises restricted to dealing in spare parts without any nexus to the supply and storage of oxygen cylinders.

MAT 600 of 2021 with IA No. CAN 1 of 2021 and MAT 601 of 2021 with I.A. No. CAN 1 of 2021 stand accordingly **disposed of**.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Saugata Bhattacharyya, J.)

(Subrata Talukdar,J.)