

21-06-2021

ct no. 13

Sl.88

pk/akd

**WPA 12384 of 2019
CAN 1 of 2020 (Old No. CAN 5721 of 2020)
CAN 2 of 2020 (Old No. CAN 5723 of 2020)
(Through Video Conference)**

**Kalpana Ghora
Versus
State of West Bengal and others**

Mr. Ujjal Kumar Ray

... for the petitioner.

Despite ten orders, the respondents have not chosen to use any affidavit. It is, therefore, presumed that the respondents do not have anything else to say than what is there on record. The writ petition itself is taken up for consideration by this Court.

By an order dated 28th June, 2018 the Clinical Establishment Licence of the petitioner under the “West Bengal Clinical Establishment Act, 1950” has been cancelled. The reason therefor is registration of Singur Police Station Case No. 200 of 2008 dated 04.09.2008 under Sections 420/467/468/406/506/120B of the Indian Penal Code. A charge sheet has also been filed against the petitioner being No. 61 of 2010 on 27.03.2010.

The petitioner is primarily aggrieved by the finding recorded in the 2nd paragraph of the said cancellation notice that “it has been

proved beyond reasonable doubt that the petitioner has committed forgery”.

The said finding may not be supported on record since neither the criminal trial against the petitioner has been concluded nor has any evidence been recorded by the authorities.

This Court, however, finds that an appeal has been preferred by the petitioner before the Commissioner, Health Services, Department of Health (F & W), Government of West Bengal and the same has been disposed of by order dated 03.06.2019. In the said order, the appellate authority has taken note of the fact that the petitioner has been wrongfully held guilty of forgery merely on the basis of the charge sheet filed against her. The appellate authority has also observed that the licence may have been terminated pre-maturely.

However, given the fact that said charge sheet dated 27.03.2010 has been filed against the petitioner, the licence granted to the petitioner shall have to remain suspended and no steps can be taken by the petitioner in furtherance of the said licence.

Needless to mention orders of the CMOH and the Commissioner (supra) could be revisited upon a decision in the pending criminal proceeding under charge sheet 27.03.2010.

It is submitted by the counsel for the petitioner that the normal period of licence has since expired. In the event the petitioner is acquitted in the criminal trial, he shall be entitled to approach the authorities not only for reconsideration of the orders of CMOH and the Commissioner (supra) but also to apply for the licence afresh, if he is otherwise entitled to in law. The CMOH and the Commissioner (supra) shall carefully consider the grounds on which the petitioner has been acquitted.

With the aforesaid observations, the writ petition is disposed of.

In view of disposal of the writ petition, connection applications being CAN 1 of 2020 (Old No. CAN 5721 of 2020) and CAN 2 of 2020 (Old No. CAN 5723 of 2020) are also disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertaking.

(Rajasekhar Mantha, J.)