

Item No. 156

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

23.03.2021
Ct-24

W.P.A. 22047 of 2019
Soumitra Chakraborty

v

The Mayor, Kolkata Municipal Corporation & Ors.
with

IA No. CAN/1/2020(Old No. CAN/2558/2020)

Mr. Supratik Basu

Ms. Urbi Roy

... for the petitioner.

Mr. Alok Kumar Ghosh

Mr. Arijit Dey

... for KMC.

The petitioner prays for a direction upon the Kolkata Municipal Corporation to take steps for consideration of the representation filed by him for cancellation of the Certificate of Enlistment issued in favour of the private respondent.

It appears that in reply to a query made by the petitioner under the Right to Information Act, 2005 the petitioner has been intimated that there is hardly any scope to take action under the provision of Section 2(f) of the aforesaid Act for cancellation of the Certificate of Enlistment.

The petitioner submits that the Certificate of Enlistment was issued by the Kolkata Municipal Corporation without taking the proper documents into consideration.

According to the petitioner the private respondent happens to be a caretaker of the shop room which the private respondent forcefully claims to be hers.

The petitioner relies upon an order passed in the Title Suit preferred by him against the private respondent being Title Suit No. 351 of 2020 wherein the Court by order dated December 21, 2020 restrained the defendant and her men and agents from creating any kind of disturbance and interference in the peaceful possession of the plaintiff in the suit premises (shop room) and also restrained the defendant from any kind of activities which affects the free ingress and egress of the plaintiff in the suit premises.

The learned advocate appearing on behalf of the Kolkata Municipal Corporation submits that there is no provision for cancellation of the Certificate of Enlistment once issued in favour of an applicant. It has been submitted that in the event, the petitioner is successful in obtaining an order from the Civil Court then necessary consequential steps shall be taken by the Kolkata Municipal Corporation.

It appears from the submissions made on behalf of the parties that though the petitioner claims that the private respondent has relied upon false and fabricated documents at the time of obtaining the Certificate of Enlistment, but till a decision is taken by the appropriate Court for declaration that the documents relied upon by the private respondent were false and fabricated, the Kolkata Municipal Corporation cannot take any step for cancellation of the Certificate of Enlistment already granted in favour of an applicant.

In the event, the petitioner is successful in obtaining necessary orders against the private respondent from the competent Court then the Kolkata Municipal Corporation shall take necessary consequential steps in terms of the order issued by the Court in this regard.

No further order can be passed in the instant writ petition.

The writ petition and the connection application are disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)