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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7359 of 2020

With

CAN 1 of 2020

(Via Video Conference)

Shovarani Ghosh

Vs.

The State of West Bengal & Ors.

Mr. Raghunath Chakraborty,
Mr. A. De

... For the petitioner.

Mr. Joytosh Majumdar, Ld. GP,
Mr. Raja Saha,
Mr. B. B. Basu Mallick

... For the State.

The petitioner was granted a temporary licence for operating a restaurant-cum-bar under the name and style “Chanakyapuri Restaurant-Cum-Bar”. The Additional District Magistrate and Collector of Excise, North 24 Parganas, passed an order on 14th June, 2019, refusing to recommend the petitioner’s case for granting permanent licence to the petitioner. The petitioner against such action, approached this Court by filing a writ petition, being WP 5697(W) of 2019, which was disposed of by an order dated 18th June, 2019, granting the petitioner a liberty to take appropriate steps with regard to such order dated 14th June, 2019 in accordance with law.

A subsequent writ petition, being WP 13569(W) of 2019 was again filed by the writ petitioner. The said

writ petition was disposed of on the ground that the petitioner has to exhaust the statutory alternative remedy available to the petitioner. The petitioner then filed another writ petition, being WP 23838(W) of 2019 wherein an order was passed on 2nd January, 2020, directing the respondent no.7 in the said writ petition to dispose of the appeal filed by the petitioner as annexed at page 80 of such writ petition, as expeditiously as possible, preferably within a period of eight weeks from date. It appears that Excise Commissioner, West Bengal, had heard the petitioner's appeal on 17th March, 2020 and had called for a fresh report from the Superintendent of Police after reviewing the situation of the law and order in respect of functioning of the petitioner's bar-cum-restaurant, through the District Magistrate, within four weeks from the receipt of the copy of the said order dated 17th March, 2020.

The petitioner has approached this Court by filing the instant writ petition, inter alia, for cancellation of the order dated 17th March, 2020, passed by the Excise Commissioner, West Bengal, being the respondent no.2 in the instant writ petition. The petitioner says that there is no question of further verification of the situation by the Appellate Authority in view of the previous report. The Appellate Authority is seeking report from the said very officers as whose behest petitioner's bar-cum-restaurant had to be closed

down. The petitioner apprehends that no justice will be given to the petitioner by the Appellate Authority.

After hearing the submissions made on behalf of the parties, I find no infirmity in the order dated 17th March, 2020 which only calls for a fresh report after reviewing the situation for being interfered with in exercise of writ jurisdiction of this Court. The petitioner has admittedly preferred an appeal and therefor has availed the statutory right available to the petitioner as against the order passed by the Additional District Magistrate and Collector of Excise, North 24 Parganas on 14th June, 2019. The appeal was heard on 17th March, 2020 when the order as referred hereinabove was passed. Immediately after passing of the order there was a national lockdown and the situation has not yet fully recovered from the grasp of pandemic. The appeal has to be brought to a logical conclusion.

In these facts and circumstances, though there was a specific direction on the respondent no.2 to dispose of the appeal within eight weeks from passing of the order dated 2nd January, 2020, owing to the pandemic, I direct the respondent no.2 to conclude the hearing of the appeal and dispose of the same with a reasoned order after hearing the parties and without giving any unnecessary adjournment to either of the parties, within a period of five weeks from date.

Nothing further remains to be adjudicated in

the writ petition and the same is accordingly disposed of along with the connected application, being CAN 1 of 2020 without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)