Court No. 24

04.02.2021

(Item No. 129)

(AB)

W.P.A 10156 of 2020

Ress Udyog Private Limited & Anr.
vs
The State of West Bengal & Ors.

Ms. Debjani Roy
Mr. Biswajib Ghosh
Mr. S. Chakraborty
…for the Petitioners

Mr. Raja Saha
Mr. Amit Kumar Ghosh
…. For the State

The petitioners are aggrieved by the communication dated 02.09.2019 made by the Pradhan of the Gram Panchayet, whereby the petitioners have been intimated that the office is very much ready to issue trade license, as applied for, subject to submission of some documents. The documents which the petitioners have been requested to submit are (i) building plan and (ii) commercial tax document.

It is the specific case of the petitioners that the building from where it intends to run its business is a very old one. There is no sanction plan readily available in respect of the said building.

As regards the submission of commercial tax document, it has been submitted that the business of the petitioners has not yet started and accordingly there is no document with regard to payment of commercial tax.

The petitioners submit that the Pradhan does not have the authority and/or jurisdiction to request the petitioners for submission of the aforesaid documents.

It has been submitted that in terms of provision 21 of the Panchayet Act, 1973, it is a duty of the Panchayet to issue certificate of enlistment. The Block Development Officer, Kandi Development Block by a communication dated 29th August, 2019 has already directed the Pradhan to issue the trade license in favour of the petitioners after abiding by all the formalities in this regard.

It has been submitted that there is no requirement of submitting either the building plan or the commercial tax documents.

The petitioners have relied upon a decision delivered by this Court in the matter of ***Layeeque Ahmed Akhter Vs. State of West Bengal and Ors.*** reported in ***2006(1) CHN 634*** wherein it has been held that at the time of grant of the certificate of enlistment the Municipal authority is only required to consider as to whether the person is engaged or is intending to be engaged in any profession, trade or calling in the Municipal area.

The petitioners submit that in the instant case the petitioners intend to run an office of the Company from the said premises. The application which was made by the petitioners for grant of the trade license however, mentions that the type of trade is “registered office”. The petitioners in the cause title of the writ petition has already mentioned the registered office of the Company and submits that the place in question will be used only as an office and not for the purpose of the registered office.

Be that as it may, as there is no provision in law for production of either the building plan or the commercial tax documents prior to issuance of the trade license in favour of an intending businessman accordingly, the direction of the Pradhan of the Gram Panchayet communicated to the petitioners by letter dated 02.09.2019 cannot be held to be valid in the eye of law. Accordingly, the direction of the Pradhan for submission of the building plan and the commercial tax documents for the purpose of issuance of the trade license in favour of the petitioners is set aside.

The Pradhan is directed to take steps to act in accordance with law, for the purpose of issuance of the trade license in favour of the petitioners within a period of eight weeks from the date of communication of a copy of this order after giving an opportunity of hearing to the petitioners. The said respondent shall pass a reasoned order and communicate the same to the petitioners immediately thereafter.

None appears on behalf of the Panchayat despite service.

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.)