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02.07.2021.
d.p.

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)**

**W.P.A 1062 of 2021
(Via Video Conference)**

**Rupak Das
-versus
The State of West Bengal & Ors.**

**Ms. Suman Sehanabis.
...For the Petitioner.**

**Mr. Tapan Mukherjee, Sr. Adv.,
Ms. Saheli Mukherjee.
...For the State.**

The petitioner is aggrieved by the order dated 7th May, 2021 issued by the Executive Officer, Mal Panchayat Samiti whereby the license of the petitioner for the Stall No. 5 has been cancelled.

The impugned order mentions that the license has been cancelled upon proper inspection and enquiry when it was found that the petitioner had given the stall to another person to run and take the monthly charges from them. The same is against the agreement and the rules of the Panchayat Samiti.

The petitioner immediately by a letter dated 10th May, 2021 made a representation before the Executive Officer of the Panchayat Samiti praying for withdrawal of the aforesaid order of cancellation of his license.

By a further communication dated 12th May, 2021, the petitioner was intimated that his prayer for consideration of continuing the stall has been rejected after due consideration and the petitioner has been directed to submit the meter box and also pay the remaining dues of the stall at the earliest.

The petitioner relies upon a chart prepared by the Executive Officer of the Panchayat Samiti which mentions the rate of the stalls with effect from 1st January, 2021. The name of the petitioner is appearing in the said chart.

The petitioner submits that the petitioner duly paid the rent for the stall in February 2021 and also in March 2021 for the months of January 2021 and February 2021.

The money receipt dated 29th April, 2021 has been annexed to show that the petitioner deposited the arrear rent for the stall in respect of the months March 2021 and April 2021.

The petitioner prays for a direction upon the respondent authorities for reconsideration of his prayer for continuing with the stall and setting aside the order of cancellation of his license.

It is the specific case of the petitioner that the alleged inspection and enquiry was made behind his back and the petitioner did not have any knowledge of the same.

The petitioner denies that he had given the stall and let out the same to any other person for running.

The learned senior advocate appearing for the respondent authorities submits, upon instructions, that the petitioner had indeed let out the stall in favour of a third party. The same is contrary to the terms and conditions of the agreement entered into by the petitioner and the Panchayat Samiti.

It has been submitted that the writ petition ought not to be entertained as the matter relates to a tenancy dispute in between the parties.

Upon hearing the submissions made on behalf of the parties, it appears that there is nothing on record to show that the inspection and enquiry was conducted after giving an opportunity of hearing to the petitioner.

The impugned communication dated 12th May, 2021 whereby the prayer of the petitioner for continuing the stall has been rejected is absolutely an unreasoned one. No ground and/or reason have been mentioned as to why the petitioner's prayer for continuing with the stall stood rejected.

It appears from records that the Samiti accepted the current rent in respect of the stall of the petitioner and accordingly, prior to passing an order of cancellation of license an opportunity of hearing ought to have been given to the petitioner.

There is complete violation of the principles of fair play, equity and natural justice.

The last communication dated 12th May, 2021 being an unreasoned order cannot stand in the eye of law and it accordingly set aside.

In view of the above, the instant writ petition is disposed of by directing the respondent Nos. 5 and 6 to take a decision with regard to the prayer of the petitioner for continuing with the stall and his license. The petitioner shall be afforded an opportunity of hearing to produce all relevant documents in support of his case.

The aforesaid respondents shall pass a reasoned order, strictly in accordance with law, within a period of four weeks from the date of communication of a copy of this order and communicate the same to the petitioner immediately thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)