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WPO 465 of 2021

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SAROJ KUMAR BISWAS AND ANR.
-VERSUS-
STATE OF WEST BENGAL AND ANR.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 26th August, 2021.

Appearance:
Mr. Mainak Bose, Adv.
Mr. Jatinder Singh Dhatt, Adv.
...for the petitioners.

Mr. T.M. Siddiqui, Adv.
Mr. Debasish Ghosh, Adv.
Mr. Nilotpal Chatterjee, Adv.
...for the State.

The Court: Pursuant to order dated 30th June, 2021 passed in WPO No. 201 of 2021, the Excise Commissioner, Bidhan Nagar Excise District has passed an order dated 3rd August, 2021. The writ petitioners are aggrieved by the same. The subject-matter is non-renewal of an excise licence of three bars in three separate restaurants owned by a company called Downtown Temptations Private Limited.

The order is challenged on the ground of violation of natural justice and not following the dicta of this Court laid down in two separate decisions which are already referred to in the order dated 30th June, 2021.

The principal grounds for refusing to renew/revive the writ petitioners' licence was a law and order problem and doubtful antecedents of a family member of the writ petitioner no.1. It is recorded that such family member is being prosecuted under the Immoral Traffic (Prevention) Act, 1956. The order is also challenged for non-application of Rule 42 of the said Rules of 2003 and Section 42 of the Bengal Excise Act, 1909.

The Court is of the view that the writ petitioner, in fact, challenges merits of the said order dated 3rd August, 2021. While strenuous attempts have been made by counsel for the petitioners, to demonstrate violation of natural justice, this Court is of the view that such violations, if at all, are not so serious as to warrant interference of a Writ Court, particularly, in a case of issuance, renewal and revival of a licence to run a bar for selling liquor.

The merits of a decision taken by an administrative authority are not interfered with under Article 226 as the same would amount to sitting in appeal therefrom. The writ petitioner has an alternative remedy of an appeal before the Secretary, Excise Department, Government of West Bengal, under Rule 2 of the Consolidated Rules framed under the provisions of Section 85 of the Bengal Excise Act, 1909. He may avail such remedy, if so advised. This Court has not decided any issue on merits raised in the writ petition and it shall be open for the appellate authority to decide all points raised before it.

It is expected that the aforesaid appeal is disposed of as expeditiously as possible. If an appeal is filed within seven days from date, let the same be disposed of within a period of forty-five days thereof.

With the above observations, the writ petition is dismissed.

(RAJASEKHAR MANTHA, J.)

s.pal