

21.02.2022
Sl. No.10
srm

W.P.A. No. 214 of 2022

Abdul Annas Khan

Vs.

The State of West Bengal & Ors.

Mr. Arabinda Chatterjee,
Sk. Anowar Ali,
Sk. Mustak Ali

...for the Petitioner.

Mr. S. Das,
Mr. S. Ghorai

...for the Respondent No.7.

Mr. Lalitmohan Mahata,
Mr. Supratim Dhar

...for the State-respondents.

Affidavit of service is taken on record.

The only contention of the writ petitioner is that the Chandipur Panchayat Samity, District-Purba Medinipur granted a licence to the respondent No.7 to run a 'hat' under the name and style "R & S Cattle Mart", without following the provisions of Rule 7 and Rule 8 of the West Bengal Panchayat (Panchayat Samiti Administration) Rules, 1984.

It is the contention of the petitioner that without having any approval of the sanitary inspector, such licence had been granted. It is also alleged that, had a proper lay out plan been prepared, then such licence could not have been

granted for the said '*hat*'. The location on which the '*hat*' has been allowed to run, is a low land/ water body.

Mr. Das, learned Advocate appearing on behalf of the respondent No.7/ the licence holder, is before this Court and submits that the licence was granted pursuant to conversion of the character of the land by the appropriate authority from *jal* to *dokan*. Such documents have been produced before this Court. It is also submitted that all other formalities required under the law were met by the respondent No.7. According to Mr. Das, allegations of the petitioner are false, frivolous and baseless. The only reason why the writ petition has been filed was that the petitioner's business was suffering and the petitioner would not allow free competition.

Mr. Mahata, learned Senior Government Advocate, appearing on behalf of the State-respondents, submits that the respondents have not committed any illegality. The petitioner does not have any locus to challenge the licence granted to the respondent No.7 when he himself was a licence holder and was operating a '*hat*' from a separate place. Loss in business cannot be a ground to deny the right of another eligible person to establish his own business. The order issued by the Government of West Bengal regarding conversion of land has also been submitted by Mr. Mahata.

Under such circumstances, there is nothing to be decided in the writ petition. However, the authorities shall ensure that the '*hat*' and the licence granted to the respondent No.7 have been done in accordance with law and not in infraction of any law. The contentions of the parties shall be heard and disposed of by the Executive Officer, Chandipur Panchayat Samity on the basis of the records.

Although Mr. Chatterjee, learned Senior Advocate appearing on behalf of the petitioner, submits that on the basis of the complaint of the petitioner, a hearing was given to the petitioner earlier, this Court directs that *de novo* hearing to be given and the pending application as also the present complaint shall be disposed of simultaneously. Apart from the allegation of violation of the Rules, no other issue will be decided by the authority. Whether the licence was granted to the petitioner in accordance with law, shall also be decided.

All the parties will be entitled to put forward their respective contentions and also adduce oral and documentary evidence in support of their respective claims.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points shall be

decided on the basis of the factual situation which transpires at the time of hearing.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)