

4 **30.06.2022**

gd/ssd

MAT/964/2022
IA NO: CAN/1/2022, CAN/2/2022
MD. HAROON
VS
UNION OF INDIA AND ORS.

Mr. Shyamal Chakraborty,
Mr. Abdul Hadi,
Mr. A.K. Lala
..for the Appellant.

Mr. Amal Kr. Sen,
Mr. Swapan Kr. Pal
..for the State.

Mr. Dipanjan Sinha Roy
..for the Respondent Nos.1 to 5.

Mr. Mukteswar Maity,
Ms. Vidhu Bansal Agarwal
..for the Respondent No.15.

In this appeal the applicant in CAN 2 of 2022 has sought leave to appeal against the order of the learned Single Judge dated 08.06.2022 whereby WPA 8747 of 2022 filed at the instance of the private respondent no.15 herein has been disposed of by cancelling the order dated 23rd November, 2021 and directing the Commissioner of Police, Kolkata to issue permission to the respondent no.15 for holding the Goat Bazar from 2nd July 2022 to 11th July, 2022 on the occasion of Bakre-e-eid (Eid-Uz-Zoha) for the year 2022. Since the applicant in CAN 2 of 2022 was not a party in the writ petition, therefore, he has sought leave to challenge the

order of the learned Single Judge.

The record reflects that the writ petition was filed by the respondent no.15 with the plea that his family was holding the Goat Bazar prior to celebration of Islamic festivals in Kolkata Maidan area at the vacant place on the Southern side. The respondent no.15 was aggrieved with the order of the Commissioner of Police, Kolkata dated 23rd November, 2021 directing that the Goat Bazar in the Southern side of Syed Baba Mazar on the occasion of Eid-Uz-Zoha will not be allowed until further order.

Learned Single Judge has considered the plea of the respondent no.15 and has taken note of the admitted position that the similar permission for holding similar cattle markets specifically Goat Bazar were given by the office of the Commissioner of Police, Kolkata from 2012 to 2018 on the occasion of the Islamic festivals and there was no explanation for refusing the permission for the Goat Bazar for the year 2021 onwards. Learned Single Judge has also taken note of the legal position by referring to the West Bengal Animal Slaughter Control Act, 1950 and has found that there is no embargo in respect of goat and sheep in the specific case of both festivals in this regard.

The contention has been raised by the learned counsel for the appellant before this Court that the

appellant is also one of the applicants, therefore, his case should be considered and the prayer of the respondent no.15 for holding the Goat Bazar could not have been straightway granted by the learned Single Judge.

Opposing the prayer learned counsel for the State as also for the Defence establishment have taken the plea that the permission is granted to only one person in the area and that the appellant had filed a separate petition on the selfsame cause and had withdrawn, therefore, he does not have right to file the present appeal. Further plea has also been raised by learned counsel for the Defence that the permission is granted on first-cum-first serve basis and the respondent no.15 was the first applicant.

We have heard the learned counsel for the parties and perused the record. It is undisputed before this Court that the appellant had filed WPA 11476 of 2022 and the same was withdrawn by the order dated 23.06.2022 without seeking any liberty. A copy of WPA 11476 of 2022 has been placed before us which indicates that the appellant herein had challenged the order of the Commissioner of Police, Kolkata dated 23rd November, 2021 in that petition whereby the permission was refused. Once the appellant had accepted the order dated 23rd November, 2021 and

decided not to prosecute the writ petition, than it is not open to the appellant to raise a challenge to the order of the learned Single Judge whereby the respondent no.15 has succeeded in his challenge to the order dated 23rd November, 2021. That apart, it is also pointed out to this Court that the respondent no.15 had applied earlier in point of time for the permission as compared to the appellant and he was entitled to permission.

In the aforesaid circumstances, we do not find any good ground to allow the CAN 2 of 2022. Hence, the leave to file the appeal is refused.

The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

