

17.01.2022
Court No. 19
Item no.4
CP

WPA 17789 of 2021

Lal Bahadur Sharma
Vs.
Howrah Municipal Corporation & ors.

Mr. Nilanjan Bhattacharjee
Mr. Arpan Guha

.....for the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka

.....for the H.M.C.

Mr. Ayan Banerjee
Ms. D. Dhamali

...for the Bally Municipality.

Mr. Ayan Banerjee, learned advocate appearing on behalf of the added respondent submits that the petitioner's place of trade does not fall within the jurisdiction of Bally Municipality. He submits that the Howrah Municipal Corporation shall be the appropriate authority to decide whether the certificate of enlistment shall be renewed in favour of the petitioner.

The petitioner claims to be the owner of a store which deals with trading of iron and hardware goods. The petitioner had applied for a certificate of enlistment before the Howrah Municipal Corporation and the certificate of enlistment was issued for the periods 2012-13, 2013-14 and upto 2017-18. The

petitioner submits that since 2018, the certificate of enlistment was not renewed in favour of the petitioner. The petitioner has also stated that the authorities did not consider the prayer for renewal of certificate of enlistment probably on the ground that a proceeding was pending before the National Green Tribunal.

Mr. Banerjee, learned advocate appearing on behalf of the Howrah Municipal Corporation, submits that on two occasions the petitioner was called for to a hearing with regard to the prayer for renewal of the certificate of enlistment but the petitioner failed to appear before the concerned authority.

Mr. Bhattejee, learned advocate appearing on behalf the petitioner, however denies such allegation. He submits that the question of withholding the renewal of the certificate of enlistment, did not arise as the National Green Tribunal (Kolkata Bench) had held that the store run by the petitioner did not create any pollution in the locality. According to him, there is no further impediment in allowing the renewal of the certificate of enlistment to the petitioner, which had been granted by the Howrah Municipal Corporation in 2012.

Having considered the rival contentions of the parties, this court is of the opinion that the competent authority of the Licence Department

under the Howrah Municipal Corporation must take a decision with regard to the application for renewal of the certificate of enlistment within a period of two months from the date of communication of this order on hearing the petitioner, if necessary.

It appears from the record that the previous certificates of enlistment from 2012 onward were issued by the Howrah Municipal Corporation, and as such, the appropriate authority would be the Licence Department under the Howrah Municipal Corporation to consider and dispose of the prayer of the petitioner. Moreover Bally Municipality has not yet been officially bifurcated.

A reasoned order shall be passed and communicated to the petitioner.

If it is found that the petitioner is otherwise eligible for renewal of enlistment certificate, the same shall be issued to the petitioner without further harassment or delay within a period of two months as directed hereinabove. If it is found that the petitioner is ineligible for some reason, then the reason shall be disclosed in the reasoned order to be passed.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)