

29-12-2022
Court No.07
AGM/AKG
Item No. 01

WPA 29155 of 2022

**Boon Realtors Private Limited
Vs.
Kolkata Municipal Corporation and Ors.**

Mr. Saptangshu Basu,
Mr. Amit Kumar Nag,
Ms. Ranjabati Ray

...For the Petitioner.

Mr. Swapan Debnath,
Ms. Dwijadas Chakraborty

...For KMC.

Mr. Partha Chakraborty,
Ms. Poulomi Dutta

... For the respondent no. 5.

This writ petition is presented, inter alia, challenging certificate of enlistment issued by the concerned authority of Kolkata Municipal Corporation (for short 'KMC') in favour of one Unnati Conclave Private Limited, being respondent no. 5.

Mr. Saptangshu Basu, learned senior advocate representing the petitioner questions the validity of such certificate of enlistment issued on 17th February, 2022 by the concerned authority of KMC (Annexure P-5) appearing at page 60 of the writ petition, upon placing reliance on Section 199 of the KMC Act, 1980 and the

guidelines of 2020 regulating issuance of such certificate of enlistment in favour of the applicants.

It is submitted by Mr. Basu, that such certificate needs to be issued in favour of person/juristic person, whereas according to the petitioner, the name of the respondent no. 5 has been struck off from the register of companies and in this regard, reliance has been placed on page 61 of the writ petition.

It is contended that not only certificate is required to be issued in favour of a person/juristic entity, but at the same time necessary enquiry is required to be made before issuance of such certificate of enlistment as contemplated in Section 199 (2) of the said Act of 1980.

According to the petitioner, without following the provisions as contained in Section 199 as well as the guidelines of 2020 since certificate of enlistment is issued in favour of respondent no. 5, the same can not survive.

KMC and the respondent no. 5 are represented by the learned advocates.

It has been submitted on behalf of the respondent no. 5 that return was not submitted before the appropriate authority, resulting in

removal of name of the company from the register of companies.

Having considered the contentions made on behalf of the respective parties, this Court disposes of the writ petition by directing the Deputy License Officer (Gariahat), Kolkata Municipal Corporation, being the respondent no. 4, to take decision on the representation of the petitioner dated 9th December, 2022 by passing a reasoned order after granting opportunity of hearing to the petitioner and the respondent no. 5 or their authorised representatives. Such reasoned order is to be passed within a period of six weeks from the date of communication of this order and the decision will be communicated to the petitioner and the respondent no. 5 within one week thereafter.

The parties shall be at liberty to take all available points before the respondent no. 4 at the time of hearing of the issue relating to grant of certificate of enlistment in favour of respondent no. 5.

With the aforesaid direction, the writ petition being WPA 29155 of 2022 stands disposed of.

There shall be, however, no order as to costs.

Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(Saugata Bhattacharyya, J.)