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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1133/2022

NIRMAL AND NAVIN PRIVATE LIMITED AND ORS.
VERSUS
STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 22nd March, 2022

Appearance:

Mr. Aniruddha Chatterjee, Adv.
Mr. Saptarshi Kumar Mal, Adv.
... for the petitioner.

Mr. Deepnath Roy Chowdhury, Adv.
Mr. K. Chakraborti, Adv.
Mr. K. S. Haque, Adv.
... for the respondent no. 5.

Mr. T. M. Siddiqui, Adv.
Mr. P. Sinha, Adv.
Mr. D. Ghosh, Adv.
... for the State.

The Court :- The writ petitioners challenge an order dated 28th January, 2022 passed by the Director of Agricultural Marketing, West Bengal acting under the provisions of the West Bengal Cold Storage(Licensing & Regulation) Act, 1966.

Admittedly, the petitioners were running the cold storage without a license since the year 2008. The petitioner nos. 2 and 3 are stated to have purchased the cold storage and are in control and management since the year 2013. It appears from the records that repeated requests to the petitioners to renew their cold storage license from the authorities have fallen into deaf ears. Finally, prosecution was launched on the complaint of the Director of Agricultural Marketing, and an FIR was registered being no. 381/2018 dated 20th July, 2018 by the Arambag Police Station.

The petitioner Nos. 2 and 3 have been enlarged on bail and claim that as a condition of such bail, they have applied for renewal of their license. The Cold Storage has however been running uninterruptedly all the while.

This Court is shocked and surprised to note as to how the petitioners are at all operating the cold storage since the year 2008, and especially after 2013 since they took over management, notwithstanding the prosecution after registration of the FIR. It is utterly dishonest on the part of the petitioners to contend that they, by reason of the license renewal application and by reason of the insurance and electricity payments, are entitled to operate the cold storage. The conduct of the petitioners apart from being in gross violation of the provisions of the aforementioned 1966 Act, are ex facie criminal in nature.

The respondent Director, Agricultural Marketing, is hereby directed to apply for cancellation of the bail of the writ petitioners.

It is expected that immediate and urgent steps would be taken to stop operation of the cold storage after making due arrangements for the relocation of the stored goods in a separate licensed cold storage. The Arambag Police Station shall render all necessary assistance to the respondent no.4 for executing this order.

The petitioners shall be liable for running the cold storage without a license, both to the authorities as well as any third parties from the year 2013.

This Court is also shocked at the audacity of the writ petitioners to seek mandamus from a writ Court, after admittedly running a cold storage without any license and despite a pending prosecution against them.

In that view of the matter, the writ petition shall stand dismissed with costs assessed at Rs.5,00,000/- payable by the writ petitioners to the respondent no.4.

In default of payment of the costs the respondent No.4 shall be entitled to apply before the authorities under the “Bengal Public Demand Recovery Act, 1913”.

(RAJASEKHAR MANTHA, J.)

mg/pa