

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
(Original Side)

APOT 56 of 2022
IA No: GA 1 of 2022

Reserved on: 01.04.2022
Pronounced on: 02.05.2022

Nirmal and Navin Private Limited and Ors.

...Appellants

-Vs-

State of West Bengal and Ors.

...Respondents

Present:-

Mr. Kishore Dutta, Sr. Advocate
Mr. Aniruddha Chatterjee,
Mr. Kallol Mondal,
Mr. Saptarshi Mal, Advocates

... for the appellants

Mr. T. M. Siddiqui,
Mr. Paritosh Sinha,
Mr. D. Ghosh, Advocates

... for the State

Mr. Deepnath Roy Chowdhury,
Mr. Kaunish Chakraborti,
Mr. S. Haque,
Mr. Bhaskar Dwivedi, Advocates

... for the proforma respondent

Coram: THE HON'BLE JUSTICE PRAKASH SHRIVASTAVA,
CHIEF JUSTICE
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
JUDGE

Prakash Shrivastava, CJ:

1. This appeal at the instance of the writ petitioner is directed against the order of the learned Single Judge dated 22nd of March, 2022 whereby WPO 1133 of 2022 has been dismissed.

2. Appellant had approached the writ Court with the plea that erstwhile director of the petitioner company, for the purpose of operating a cold storage on the unit owned by the company, had applied for license under West Bengal Cold Storage (Licensing and Regulation) Act, 1966 (for short, 'the Act of 1966'). Initially license dated 30th of August, 1993 was granted for a period of 5 years which was renewed from time to time upto 29th of August, 2008. Further case of the appellant was that the entirety of the shares of the petitioner company were sold and transferred to the appellant Nos. 2 and 3 and other members of the family who became the majority share holder. The show cause notice dated 8th of July, 2016 was issued by the respondent licensing authority for cancellation of license. Certain proceedings were taken up thereafter and the notice dated 28th of January, 2022 was issued by the Director of Agricultural Marketing, requiring the appellant to submit the copy of the final judgment in two cases pending against the appellant, hence the writ petition was filed challenging the said notice and also making a prayer to regularize the license and grant renewal of the license.

3. Learned Single Judge while examining the plea has found it shocking that the appellant was operating the cold storage since 2008, and especially after 2013 after taking over management, in spite of registration of FIR and prosecution. In this background, the plea of the appellant raised in the petition for renewal of the license has been found to be dishonest plea and the conduct of the appellant has been found to be in gross violation of the provisions of the Act of 1966 being ex facie criminal in nature. Respondent Director, Agricultural Marketing, therefore, has been directed to apply for cancellation of bail and observation has been made to take immediate steps to stop the operation of the cold storage after making due arrangements for

relocation of stored goods in a separate licensed cold storage and the appellant has been held liable for the running of cold storage without license, both to the authorities as well as from any third party from the year 2013. In this background, the writ petition has been dismissed by imposing a cost of Rs. 5,00,000/- payable by the appellant to the respondent No. 4.

4. Submission of the learned Counsel for the appellant is that the direction of the learned Single Judge to apply for cancellation of bail is harsh and that earlier also the license which was in the name of the company was renewed with retrospective effect and presently there are seeds stored in the cold storage.

5. Learned Counsel for the official respondent has opposed the appeal and has submitted that the license of the appellant had expired long back and appellant is operating without license in spite of registration of FIR.

6. Learned Counsel for the private respondent has submitted that in the civil proceedings, private respondent has been found to be the owner of the cold storage and he is running the same whereas the appellant has trespassed by violating the order of the status quo.

7. Having heard the learned Counsel for the parties and on perusal of the record, it is noticed that undisputedly the license of the appellant had expired in the year 2008 and thereafter there was no right to run the cold storage without obtaining the renewal. Record further reflects that the civil dispute is pending between the appellant and the private respondent in which certain orders are passed which are binding on the parties but appellant had allegedly violated those orders. That apart, registration of FIR in the year 2018 at the instance of the Assistant Director of Agricultural Marketing for offence under the provisions of the Act of 1966 is not in dispute but in spite of expiry of license and registration of FIR, appellant

had continued to operate the cold storage, therefore, learned Single Judge has not committed any error in dismissing the petition. On the issue of direction to apply for cancellation of bail we are of the opinion that having regard to the circumstances of the case instead of issuing a positive direction to the respondent Director, Agricultural Marketing to apply for cancellation of bail, it should be left to his discretion to take appropriate steps considering the ground situation in the matter for cancellation of the bail and if such an application for cancellation is filed the same will be decided on its own merit. We also find that the cost which is imposed by the learned Single Judge is on the higher side, therefore, the cost is reduced to Rs. 1,00,000/-. With the aforesaid modification, the order of the learned Single Judge is affirmed and the appeal is disposed of.

(PRAKASH SHRIVASTAVA)
CHIEF JUSTICE

(RAJARSHI BHARADWAJ)
JUDGE

Kolkata
02.05.2022

PA(SS)

(A.F.R. / N.A.F.R.)