

IN THE HIGH COURT OF ORISSA AT CUTTACK

WA No. 667 of 2019

Navodaya Youth Association ***Appellant***
Ms. Subhashree Mohanty, Advocate

-versus-

Bhubaneswar Municipal Corporation & Others ***Respondents***

Mr. Pranoy Mohanty, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN**

**ORDER
10.11.2022**

Order No.

03. 1. The challenge in the present writ appeal is to the order dated 27th November, 2019 passed by the learned Single Judge dismissing W.P.(C) No 22640 of 2019 filed by the Appellant-Association.
2. In the writ petition, the Appellant had challenged the order dated 3rd November, 2019 as well as a letter dated 11th November, 2019 issued by the Bhubaneswar Municipal Corporation (BMC) through its Commissioner and Deputy Commissioner calling upon it to pay Rs.6,47,190/- being the arrear of license fee for running temporary shops in the area allotted to it.
3. The aforementioned writ petition was the second round of the litigation before the learned Single Judge. In the first round the Appellant had filed W.P.(C) No.3060 of 2016, in which the learned

Single Judge passed an order on 26th March, 2019 directing the BMC to take a decision on the representation of the Appellant.

4. In the first round, the Appellant had challenged the BMC Resolution dated 30th December, 2014 enhancing the license fee from Rs.400/- to Rs.800/- per day. Pursuant to the order passed by the learned Single Judge, a Committee was formed to examine the grievance of the Appellant and submit a report to the Commissioner. That report revealed that initially the Appellant had been allowed to install two temporary stalls for selling winter clothes inside internal Lane between Qr.No.VII-17/C and VII-16/C near Rajmahal Square for the period from 1st July, 2011 to 29th August, 2011. This permission was renewed from time to time till 20th October, 2014. The Appellant was paying license fee of Rs.400/- per day for 480 sq.ft. during 2014. After the fee was increased to Rs.800/- per day by the BMC, the assessment was revised. After adjusting the amounts paid by the Appellant, a sum of Rs.6,47,190/- remained outstanding.

5. The team of the BMC on physical verification found that 24 temporary sheds were on both sides of the road in Lane-1, Unit-1 running their business throughout the year although the allotment was for specific period only. This was a clear violation of the terms and conditions of grant of allotment.

6. The learned Single Judge has observed that in view of the above factual findings the demand raised for Rs.6,47,190/- could not be said to be unreasonable or unwarranted and, therefore, dismissed the writ petition.

7. The learned counsel for the Appellant sought to argue that individual shop owners were being asked to pay the enhanced

license fee, whereas the allotment was made only in favour of the Appellant. The Court finds that in fact the demand has been raised only against the Appellant and it is the Appellant which went to the Court challenging the demand. Therefore, there is no merit in this contention.

8. Learned counsel for the Appellant then sought one more opportunity to file yet another representation to the BMC for waiving the above-mentioned demand. Learned counsel for the BMC on the other hand points out that the assessment was in fact revised after the enhancement of the license fee and adjustment was also made of the amount already deposited by the Appellant.

9. Having considered the above submissions, this Court is not inclined to interfere with the order of the learned Single Judge, which appears to have proceeded purely on the factual findings returned by the team that was set up by BMC to undertake physical verification of the allotted site. Consequently, the Court finds no reason to interfere with the impugned order of the learned Single Judge.

10. Accordingly, the writ appeal is dismissed. The interim order dated 20th December, 2019 is vacated.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge