

23rd February, 2023
(D/L No.9)
(SKB)

W.P.A. 2068 of 2023

Kabiruddin Ahmed
Versus
The State of West Bengal and others

Mr. Shamim-ul Bari,
Ms. Keya Sutradhar
... for the petitioner.

Mr. S. P. Lahiri
... for the State.

Mr. Amarendra Chakraborty,
Mr. Argha Banerjee
... for the respondent no.5.

The petitioner is aggrieved by a notice dated 21st December, 2022 which describes itself as “Notice of suspension”. By the impugned notice, the registration of Clinical Establishment of the licence number as mentioned was directed to be suspended with effect from the date of issuing of the letter till further notice.

Although learned counsel appearing for the respondent nos.1 to 4 submits that the suspension is only for a temporary period, there is nothing in the impugned Notice to corroborate the said submission.

Section 22 of The West Bengal Clinical Establishments (Registration, Regulation and Transparency) Act, 2017 gives the power to the licensing authority to cause an inspection of or inquiry into any clinical establishment. Section 23 of the 2017 Act contemplates notices for improvement.

In the present case, admittedly, Chief Medical Officer of Health (CMOH), Malda did not serve any notice to the petitioner in defiance of due process to put the petitioner on notice that the licence would be suspended. The reason given for absence of notice is that the premises is a litigated property. This is a weak and untenable reason.

However, since learned counsel appearing for the petitioner submits that the petitioner is ready to shift the premises to another location, W.P.A.2068 of 2023 is disposed of with a direction on the CMOH being the respondent no.2 to cancel the impugned notice of 21st December, 2022 with immediate effect. The petitioner is given liberty to move the clinical establishment from the present location to another location within a period of four weeks from date. The CMOH is directed thereby to take due steps under the 2017 Act and the Rules for allowing the petitioner to continue the clinical establishment at the new location. The petitioner shall also be allowed to continue within the present location for a period of two weeks to wrap up the present operations.

Since no affidavits have been called for, allegations made in the writ are deemed not to have been admitted.

(Moushumi Bhattacharya, J.)