

07
26.04.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 2343 of 2022

**Nalini Ranjan Saha
-versus
The State of West Bengal & Ors.**

**Mr. Sunit Kumar Roy,
Mr. Kali Kinkar Dey.
...For the Petitioner.**

**Mr. Dilip Chatterjee,
Mr. Anaul Farmania.
...For KMC.**

**Mr. Himadri Sikhar Chakraborty,
Mr. K.M. Hossain.
...For the State.**

**Ms. Pritha Bhaumik Basu.
...For the Respondent No.8.**

The petitioner prays for cancellation of the Certificate of Enlistment issued in favour of the private respondent by the Kolkata Municipal Corporation.

It appears that initially an agreement was entered in between the petitioner and the private respondent in the year 1998 whereby the petitioner agreed to engage the private respondent as his agent for running a business at the subject premises for a period of five consecutive years and the agency would be automatically extended for further five years.

The petitioner agrees that the agent, i.e. the private respondent had the right, power and authority to modify the signboard without any objection from the principal that is the petitioner. The private respondent has, accordingly, obtained the Trade License in the name of Bhagya Laxmi.

A further license agreement was entered by and between the petitioner and the private respondent in the year 2012 which was effective till 2015.

The shop room in question is in possession of the private respondent and he is carrying on business from the said shop room on the basis of the Certificate of Enlistment issued by the Kolkata Municipal Corporation.

The petitioner contends that after the expiry of the agreement, the private respondent does not have any right to continue with the business from the subject premises.

The petitioner submits that the Corporation is renewing the Certificate of Enlistment in favour of the private respondent without the necessary documents.

It has been submitted by the petitioner that for the first time Certificate of Enlistment was issued in favour of the private respondent in the year 2016.

Prayer has been made for directing the Corporation to cancel the Certificate of Enlistment as the petitioner does not have any document in support of possession of the subject premises.

Learned advocate appearing for the private respondent submits that as per the requirement for obtaining the Certificate of Enlistment published by the Kolkata Municipal Corporation in its official website, the private respondent submitted the license agreement and obtained the Trade License.

The private respondent relies upon a decision passed by this Court on 24th February, 2021 in WPO 48 of 2021 in the matter of Soumendra Kristo Dutt & Anr. –vs- The Kolkata Municipal Corporation & Ors. wherein it has been mentioned that there is no requirement for production of consent letter from the owner prior to issuance of Certificate of Enlistment.

In the present case, though the petitioner did not give any consent in favour of the private respondent for running the business in question, but admittedly the private respondent is operating the business for quite sometime from the said address.

The petitioner is not in possession of the subject premises.

The license agreement executed by the petitioner in favour of the private respondent appears to have been expired in the meantime.

It will be open for the petitioner to take appropriate action against the private respondent but the same cannot be a reason seeking cancellation of the Certificate of Enlistment.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition fails and is hereby dismissed.

Since the matter is disposed of without calling for any affidavit, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)