

28.08.2023
Item No.02
Court No.6.
S. De

M.A.T. 241 of 2023
With
I.A. No. CAN/1/2023

Smt. Pratima Dey.
Vs
Md. Asgar Ali & Ors.

Mr. Debasis Kar,
...for the appellant.
Mr. Asish Kumar Guha,
Mr. Anirban Dutta,
...for the State.
Mr. Sounak Bhattacharyya,
Mr. Sounak Mondal,
...for the respondent no.1.
Mr. Dipak Kr. Mukherjee,
Mr. Rajib Mukherjee,
Ms. S. Bhaduria,
...for the Municipality.

By consent of the parties the appeal and the connected application are taken up together for hearing.

This appeal is directed against a judgment and order dated January 24, 2023, whereby the writ petition of the respondent no.1 herein, being WPA No.21727 of 2022, was disposed of by a learned Single Judge. The appellant herein was the private respondent no.6 in the writ petition.

The respondent no.1/writ petitioner claims to be a tenant under the present appellant. He was aggrieved by a communication dated July 5, 2022, issued by the Executive Officer, Bhatpara

Municipality, whereby his Trade Licence stood withdrawn as he failed to produce “No Objection” from the landlord.

The learned Judge observed that no provision of law has been placed before the Court to suggest that a “No Objection” is required from the landlord for issuance of certificate of enlistment by the Municipality. Accordingly, the learned Judge set aside the order withdrawing the certificate of enlistment/Trade Licence of the writ petitioner and disposed of the writ petition by observing as follows :

“The certificate of enlistment issued on February 10, 2022 is valid till date. It will be open for the petitioner to continue his business with the said certificate of enlistment as long as the said certificate remains valid.”

Being aggrieved, the private respondent no.6 has come up by way of this appeal.

We have heard learned counsel for the parties. We are of the view that this appeal has become infructuous. We say so, because the learned Single Judge, while setting aside the Municipality’s order withdrawing the Trade Licence, clarified that the writ petitioner would be entitled to continue with his business on the basis of the Trade Licence/certificate

of enlistment so long as the same remains valid. It is not in dispute that the Trade Licence was valid till February 9, 2023 and expired after that date by efflux of time. It will be now for the writ petitioner to obtain fresh Trade Licence if he wishes to carry on his business from the concerned premises.

Learned advocate for the appellant says that liberty should be granted to the appellant to lodge objection with the Bhatpara Municipality opposing grant of Trade Licence to the writ petitioner. We are not inclined to grant any such liberty. If the appellant has the right in law to oppose the grant of Trade Licence/certificate of enlistment by the Municipality to the writ petitioner, the appellant would be at liberty to do so.

Since we have not called for affidavits, the allegations contained in the stay application are deemed not to be admitted by the respondents.

MAT 241 of 2023 is disposed of along with the application being I.A. No. CAN/1/2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)