

W.P.A. 4679 of 2012

**Sri Sukhendu Samanta
Vs.
The Kolkata Municipal Corporation & Ors.**

Mr. Subir Sanyal
Mr. Animesh Das
....for the petitioner

Mr. Biswajit Mukherjee
Mr. Debangshu Mondal
...for the Kolkata Municipal Corporation

The writ petition is presented, *inter alia*, challenging fixation of stallage charge vide impugned order dated 9th December, 2011 issued by the concerned authority of Kolkata Municipal Corporation. Petitioner is aggrieved by fixation of stallage charge @ Rs. 56,800/- as fixed by the Corporation. It has been argued by Mr. Subir Sanyal, learned Counsel representing the petitioner that the stallage charge is required to be fixed considering the rate which was prevalent in 1983-1984 instead of the rate which was applicable in the year 2011 at the time of passing order fixing the stallage charge.

Mr. Biswajit Mukherjee, learned advocate representing the Kolkata Municipal Corporation submits that if the issue is remitted to Chief Manager, Market, Kolkata Municipal Corporation, the matter can be considered afresh based on the submission and case made out on behalf of the petitioner relating to fixation of stallage charge which according to the petitioner is not justifiable

since the rate which was prevalent in 2011 has been applied.

Having considered the submission made on behalf of the parties this Court directs Chief Manager, Market, Kolkata Municipal Corporation, to take decision on the application of the petitioner dated 1st September, 1983 which is at page 52, annexure P3, to this writ petition. Such decision is to be taken by the Chief Manager, Market within a period of 8 (eight) weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or his representative. The decision to be taken by the Chief Manager shall be communicated to the petitioner within 1 (one) week thereafter.

In order to facilitate the authorities to take decision in terms of the aforesaid order the petitioner is directed to communicate the application dated 1st September, 1983 to the Chief Manager, Market and Chief Manager, Market while take decision for fixation of stallage shall follow the rate which was prevalent in the year 1983-1984.

Consequently impugned decision of KMC dated 9th November, 2011 stands set aside. The writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)

