

198 & 199
08.09.2023
d.p.

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

WPA 8709 of 2023

**Bhupinder Singh Atwal
Vs
The State of West Bengal & Ors**

**Mr. Vikas Baisya.
...For the petitioner.**

**Mr. Debjit Mukherjee,
Mr. Prashant Agarwal.
... For the respondent nos. 8 & 9.**

**Mr. Ansar Mondal,
Ms. Sangeeta Roy.
... For the State.**

**Mr. Sounak Bhattacharya,
Mr. Abhirup Halder.
... For the Asansol
Municipal Corporation.**

With

WPA 11342 of 2023

**Baazar Retail Private Limited & Anr.
Vs
Asansol Municipal Corporation & Ors.**

**Mr. Debjit Mukherjee
Mr. Prashant Agarwal
... For the petitioners.**

**Mr. Vikas Baisya.
...For the respondent no.4.**

**Mr. Om Narayan Rai,
Mr. Nikhilesh Mittal,
Mr. Prasanna Halder.
... For the respondent no. 5.**

**Mr. Sounak Bhattacharya,
Mr. Abhirup Halder.
... For the Asansol
Municipal Corporation.**

The trade license issued in favour of Baazar Retail Private Limited stood cancelled by the order of the Mayor in November 2022.

From the instruction provided by the Legal Advisor of the Asansol Municipal Corporation dated 4th September, 2023, it appears that on the date the impugned order of cancellation of trade license was passed by the Mayor, the Commissioner, Asansol Municipal Corporation was very much present and available.

The trade license was cancelled without affording any opportunity of hearing to any of the parties.

The Mayor does not have the authority to pass order of cancellation of trade license as the same is one of the functions and duties of the Commissioner of the Corporation.

The petitioner, Mr. Bhupendar Singh Atwal, raises an issue with regard to issuance of the trade license in question.

As it *prima facie* appears that the impugned order of cancellation of license was passed without following the principles of natural justice, accordingly, the same is liable to be set aside and is, accordingly, set aside.

It appears that the post of the Commissioner of the Corporation is presently vacant. Mr. Subhajit Basu, Secretary, Asansol Municipal Corporation is in-charge of paying salary to the staff and other recurring expenditure of the Corporation.

The aforesaid Subhajit Basu, Secretary is directed to hear all the parties and to take a decision with regard to the issuance of license.

The Secretary shall decide the issue, on merits, without being influenced by any of the observations made in the order hereinabove.

A decision shall be taken in the matter at the earliest, but positively within a period of eight weeks from the date of communication of this order.

It is made clear that the order passed by the Secretary will always be subject to the order passed by the Learned Civil Court where a suit for partition in between the parties is pending consideration.

Instruction given by the Legal Advisor, Asansol Municipal Corporation dated 4th September, 2023 is taken on record.

Pendency of the civil suit will not stand in the way of the Secretary to arrive at a decision in the matter only with regard to the issuance of trade license and no further issue will be decided by the Secretary.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)