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24.07.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 12921 of 2021

Md. Haroon
Vs.
The Union of India & Ors.

Mr. Shyamal Chakraborty,
Mr. Abdul Hadi
...for the petitioner

Mr. Dipanjan Sinha Roy
...for the respondent nos. 1 to 5

Learned counsel appearing for the petitioner contends that there was palpably irregularity in granting the permission for holding a Goat Bazar in the concerned area of the Kolkata Maidan, which is a part of the defence land, to one Tarkeshwar Singh and not the petitioner,.

It is submitted that even the Annexures to the affidavit filed by the respondent-authorities, at page 32 thereof, indicate that the said Tarkeshwar Singh and the petitioner, namely Md. Haroon, applied on the same date, that is, July 04, 2022.

It is also contended that the respondents specifically insisted upon compliance of several formalities, including production of a sketch

showing the exact area proposed to be used for the event, details of structures and activities planned, police clearance as well as exemption from this Court regarding ban on any commercial activity in Kolkata Maidan (W.P. No. 384 of 2005).

However, even though the said Tarkeshwar Singh could not produce such documents, the said applicant was permitted to run the Goat Bazar, thereby depriving the petitioner of the petitioner's valuable rights and violating the principle of equality enshrined under Article 14 of the Constitution of India.

It is submitted that although the Goat Bazar has already been completed, the respondent-authorities ought to be directed to hold adequate enquiry/investigation into the matter of such irregularity.

Such contentions are controverted by learned counsel appearing for the respondent-authorities by placing reliance on the affidavit filed by the respondent-authorities. That apart, it is submitted that the petitioner, illegally, intruded into the land-in-question even without getting any permission and had started selling goats, which is in gross contravention of law.

In the event the petitioner contravened law by trespassing into the property, it was open to the respondent-authorities to take appropriate steps in that regard and pursuing the same before the competent criminal forum.

However, the same does not have a direct bearing on the present cause of action.

In paragraph no. 5 of the affidavit of the respondent no. 3, filed pursuant to the direction dated June 26, 2023 in the present writ petition, it has been disclosed that the writ petitioner had applied on July 02, 2022 seeking permission for holding a Goat Bazar.

Subsequently, it has been alleged, as per the laid down rules, the local military authorities, the office of the answering respondent being under one of such office, were empowered to accord sanction for use for A-1 defence land. As per policies, any permission for use of defence land for more than 3 days has to be sanctioned by the Ministry of Defence, it is stated.

It is further pleaded therein that on receiving the petitioner's application dated July 02, 2022, the office of the answering-respondent promptly responded by addressing the petitioner with a letter

dated July 05, 2022, whereby the petitioner was asked to re-submit the application with certain information and documents, particulars of which have been referred to in the said reply dated July 05, 2022, which has also been annexed to the said affidavit.

A perusal of the affidavit indicates that the same reiterated the pre-requisites for having such permission.

Subsequently, it is alleged, the office of the answering respondent received three more similar applications. Tarkeshwar Singh, the ultimately successful applicant, made such application on June 30, 2022, the petitioner on July 02, 2022 and two others respectively on July 11 and July 12 of 2022.

Despite requiring the petitioner to re-submit his application on July 5, 2022, it is alleged that the petitioner did not act in response thereto. As such, the office of the answering respondent, by its letter dated August 02, 2022, forwarded four applications to its higher authorities, being the HQ Eastern Command, Q (Land) for necessary action. Ultimately, after scanning and scrutinizing the documents, since it was found that Tarkeshwar

Singh's valid application preceded the petitioner's, the permission was granted to the said Tarkeshwar Singh.

The present arguments raised by the petitioner in the writ petition, pertaining to the alleged irregularities in grant of permission to Tarkeshwar Singh, are *de hors* the scope of the original writ petition, in any event.

That apart, the respondent-authorities have, in their affidavit, sufficiently disclosed valid reasons, at least on a *prima facie* footing, to satisfy the court's judicial conscience regarding the grant of permission to Tarkeshwar Singh being otherwise in accordance with law.

Hence, there is no scope of further interference in the writ petition, particularly since the Goat Bazar has already been held and it has been substantiated by the respondent-authorities, by relevant documents and affidavit, that the successful applicant for such permission had produced valid documents prior to the petitioner.

In such view of the matter, the writ petition cannot survive.

Accordingly, W.P.A. No. 12921 of 2021 is dismissed without, however, any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)