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06.02.2023
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 16474 of 2019

**Md. Rustam Ansari
-versus
The Garulia Municipality & Ors.**

**Mr. Sounak Bhattacharya,
Mr. Abhirup Halder.
...For the Petitioner.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of the respondents in spite of service.

The petitioner is aggrieved by the communication made by the Vice-Chairman, Garulia Municipality on 26th June, 2019 intimating the learned advocate of the petitioner that the petitioner ought to have submitted 'No Objection Certificate' from the landlord of the premises to obtain enlistment or renew the certificate of enlistment.

In the absence of the 'No Objection Certificate' from the landlord, the petitioner who claims to be a tenant in the premises no. 176, West Ghosh Para Road, P.O.- Shyamnagar, District- North 24-Parganas was held to be running his business without papers and valid certificate of enlistment from the Municipality. Notice was given for closing his business.

The petitioner submits that the certificate of enlistment was valid till 31st March, 2019 but thereafter the Municipality illegally, upon misappreciation of the provisions of law, failed and refused to renew the said certificate of enlistment.

It has been submitted that though the impugned communication mentions that presently the holding no. 176 stood amalgamated with holding no. 173 and the holding is renumbered as holding no. 173, but the eviction suit that has been filed by the landlord against the petitioner mentions about the holding no. 176 as the tenanted premises of the petitioner.

Reliance has been placed on an unreported order dated 24th January, 2023 passed by this Court in WPA 21727 of 2022 (Md. Asgar Ali -vs- The State of West Bengal & Ors.).

According to the provisions of law, the Municipality is not entitled to call for a 'No Objection Certificate' from the landlord prior to issuance of a certificate of enlistment or renewal of the certificate of enlistment.

The Municipality can restrict an enquiry only with regard to the possession of the applicant at the subject premises. If the applicant is found to be in possession and running business therefrom, his prayer for renewal of license cannot be refused. The Municipality is not entitled to refuse renewal of the certificate of enlistment on the ground of non-production of the No Objection Certificate from the landlord.

In the present case, the petitioner is admittedly in possession of the tenanted premises and the eviction suit filed by the landlord against the petitioner is pending consideration till date.

The petitioner has annexed the electricity bill in his name issued by the CESC Limited in respect of the subject premises.

The application filed by the petitioner seeking renewal of the certificate of enlistment for the year 2019-2020 has been disallowed. The same is contrary to the provisions of law.

The communication dated 26th June, 2019 made by the Vice-Chairman, Garulia Municipality is, accordingly, set aside.

The Municipality is, accordingly, directed to consider the prayer of the petitioner in accordance with law and in the light of the observations made herein above for renewal of certificate of enlistment on the basis of the documents supplied by the petitioner.

The Municipality shall take steps in the matter at the earliest, but positively within a period of six weeks from the date of communication of a copy of this order.

The petitioner shall be liable to comply the requisite formalities and pay the necessary charges for obtaining the certificate of enlistment.

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.)