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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 22977 of 2022

Aloke Kumar Dey
Vs.
The State of West Bengal & Ors.

Mr. Amit Pan,
Mr. Sandip Ghosh
... for the petitioner

Mr. Tanoy Chakraborty,
Ms. Mousumi Banerjee
...for the State

1. Learned counsel for the petitioner contends that the petitioner sought for a shifting of the petitioner's liquor shop. However, such permission was refused by the first authority as well as the appellate authorities on the ground that the proposed site, to which the shop was to be shifted, fell within the prohibited area, that is, within 1000 feet from an educational institution, being an Anganwadi Centre.

2. Learned counsel for the petitioner argues that the premise of such orders is erroneous, since Anganwadi Centers are not recognized educational institutions which fall within the purview of Rule 8 of the West Bengal Excise (New Sites and Grant of Licence) Rules, 2003. It is contended that the West Bengal Excise (Shifting of Existing Site) Rules,

2009, in Rule 4.3.1 thereof, specifies that the Collector is to ascertain whether the proposed new site of the excise licence for retail sale of liquor and certain other intoxicants does not attract restrictions imposed under Rule 8 of the 2003 Rules. In the absence of mention of the Anganwadi Center as an educational institution recognized by the State in any provision of law, it is submitted that the orders impugned herein ought to be set aside.

3. Learned counsel for the respondent-authorities places reliance on the order of the Government of West Bengal, Department of Excise, dated January 20, 2012, which indicates that Anganwadi Centres may not be excluded from the meaning of “educational institution” under Rule 8 of the 2003 Rules.

4. That apart, learned counsel also places reliance on the West Bengal Right of Children to Free and Compulsory Education Rules, 2012. In Rule 5(4)(iv) it has been stipulated that the Register of maintenance of records of children, as contemplated under the said Rules, also includes Angawadi Centres. That apart, learned counsel places reliance of Section 9(e) of the Right of Children to Free and Compulsory Education Act, 2009, which also mentions that every local

authority shall ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction.

5. Upon hearing learned counsel for the parties, it transpires that the expression on which the entire dispute hinges is “recognized” as used in Rule 8(1) of the 2003 Rules. The said sub-rule provides that no licence for the retail sale of liquor or any other intoxicant at a new site shall be granted where the new site is situated in the vicinity of an educational institution “recognized by the State Government or the Central Government...”.

6. The question which arises is whether the term ‘recognized’ necessarily connotes recognized by or affiliated to a particular Board of Education.

7. It is to be noted that the Anganwadi Centres as per the Integrated Child Development Scheme, floated by Government of West Bengal, cater inter alia to imparting education to children belonging to the age group three to six years.

8. Apart from other activities, the said educational activity is also one of the integral functions of Anganwadi Centres.

9. Rule 4.3.1 of the 2009 Rules merely refers to Rule 8 of the 2003 Rules and, as such, has to be read in such context. It is for the Collector to

ascertain whether any of the restrictions in Rule 8 of the 2003 Rules are applicable.

10. Learned counsel for the respondent-authorities has rightly pointed out that Rule 5(4)(iv) of the 2012 Rules clearly stipulates that the State Government, through appropriate local authorities, shall maintain at the level of the Circle Level Resource Centre, a register of all children under their respective jurisdictions from their birth till they attain the age of 14 years. The register shall, in respect of every child including an infant after birth, include the name of school or pre-school or “Anganwadi Centre”, etc.

11. Thus, it is evident that recognition has been given to Anganwadi Centres on equal footing as schools and pre-schools under the Right of Children to Free and Compulsory Education Act, 2009. Since the said Act governs the imparting of education within the State and operates in the specific field of education, the mention of Anganwadi Centre as a school or a pre-school definitely has to be construed as a recognition of Anganwadi Centres as educational institutions within the contemplation of Rule 8 of the 2003 Rules.

12. That apart, Section 9 of the Right of Children to Free and Compulsory Education Act, 2009 also

mentions that every local authority shall ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction. Read in conjunction, it cannot be gainsaid that Anganwadi Centres, within the contemplation of the Scheme under which those have been formulated, also have activities of imparting education to children in the age group of three to six years.

13. Hence, the said Centres fall within the specific ambit of Rule 8 of the 2003 Rules.

14. Accordingly, the authorities below did not commit any jurisdictional error whatsoever in construing an Anganwadi Centre situated within the prohibited radius of the proposed site of shifting of the petitioner's liquor shop to be an educational institution within the purview of Rule 8 of the 2003 Rules and rejecting the petitioner's prayer of shifting the liquor shop to a location within 1000 feet of which an Anganwadi Centre is situated.

15. In such view of the matter, there is no scope of interference in the orders impugned herein.

16. Accordingly, W.P.A. No. 22977 of 2022 is dismissed on contest without, however, any order as to costs.

17. 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.)