

Sl No.33
27.02.2023.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 358 of 2023
Ratan Ghosh
-versus
The State of West Bengal & Ors.**

Mr. Aniruddha Biswas
Mr. Saurav Sarkar
Mr. Abhisek Palit
... for the petitioner.

Mr. Subir Kumar Saha
Mr. Momenur Rahman
... for the State.

The petitioner is aggrieved by the cancellation of Sarai Registration Certificate by the Commissioner of Police, Siliguri Police Commissionerate.

The petitioner alleges that the registration was cancelled without affording any opportunity of hearing.

Learned advocate for the State respondents submits, upon instruction that, the mandatory provisions of the Sarai Act was not complied with by the petitioner.

The hotel did not install CCTV properly and did not take proper identity proof from the visitors/boarders. The hotel in question does not close at proper time. The hotel rooms are let out for illegal activities in lieu of huge money.

Complaint was lodged before the police in July 2022 when an incident of gang rape took place and the entire incident was videographed and the victim lady

was blackmailed to pay money, failing which the video would be uploaded in the internet.

On a complaint filed by the victim Bhaktinagar Police Station Case No. 734 of 2022 started on July 8, 2022. Charge sheet has already been submitted and the trial will commence shortly. During inspection it revealed that the petitioner being the owner of the hotel was involved in the case and he has been charge sheeted. As the hotel on regular basis failed to obey the provisions of the Sarai Act, accordingly, the Commissioner of Police being the authority for issuing, renewal and cancellation of license cancelled the registration certificate of the petitioner.

It appears from the submissions made on behalf of both the parties and from the materials placed before this Court that the impugned cancellation was made relying upon the pendency of the criminal proceeding and on the prayer made by the Investigating Officer.

The petitioner submits that the hotel is the only source of income and an opportunity of hearing ought to have been granted to the petitioner prior to cancelling the registration certificate.

The reasons for cancellation are, however, not specified in the order of cancellation. The Commissioner of Police ought to have disclosed the necessary details for cancellation of the license otherwise the impugned order is hit by the principle of natural justice.

Accordingly, the Commissioner of Police, Siliguri Police Commissionerate is directed to intimate the petitioner in details the reasons for cancellation of his registration certificate under the Sarai Act.

The Commissioner of Police, Siliguri shall intimate the aforesaid to the petitioner at the earliest but positively within a period of four weeks from the date of communication of this order.

The prayer of the petitioner for setting aside the order of cancellation, however, cannot be accepted at this stage as the police have found that there is resentment amongst the public of the area with regard to the running of the hotel and there is a chance of serious law and order problem.

The Commissioner of Police, if required, may review the situation after giving an opportunity of hearing to the petitioner.

The writ petition stands disposed of.

Instruction provided by the Commissioner of Police, Siliguri Police Commissionerate dated February 2, 2023 be retained with the records.

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

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

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(Amrita Sinha, J.)