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08.06.2023.
Ct. 3
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**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

WPA 1196 of 2021

**Sanjeeb Saha and Anr.
-versus-
Siliguri Municipal Corporation and Ors.**

Mr. Jagriti Mishra
Mr. Subham Gupta
Ms. Mrinmayee Das

... for the petitioners.

Mr. Debarshi Dhar
... for the Siliguri Municipal Corporation.

Mr. Avrojjyoti Das
Ms. Pratyusha Dutta Chowdhury
... for the respondent no.3.

Counsel for the petitioners, the counsel for the Siliguri Municipal Corporation and the counsel for the respondent no.3 are present.

The petitioners have filed the present writ application challenging the order passed by the Commissioner, Siliguri Municipal Corporation dated 26th March, 2021 wherein the trade license issued by the Municipal Corporation dated 31st March, 2020 was cancelled on the ground that the trade license was issued in the name of dead persons i.e. the father, mother and uncle of the petitioners and the petitioners have not intimated to the Corporation with regard to the death of his father,

mother and uncle and obtained license in the name of the dead persons.

Counsel for the petitioners submits that the Commissioner, Siliguri Municipal Corporation while passing the impugned order has relied upon the Partnership Deed of 2016 entered between Subodh Kumar Saha, Namita Saha, Sanjeeb Saha, Monica Saha Phaujdar and Uttam Kumar Saha but the Corporation has not considered the reconstituted Deed of Partnership executed on 1st April, 2017 wherein only two partners are there, i.e. Sanjeeb Saha and Monica Saha Phaujdar.

Learned counsel for the petitioners further submits that the Commissioner, Siliguri Municipal Corporation has also not considered that Sri Sanjeeb Saha who is one of the partners in terms of the reconstituted Partnership Deed dated 1st April, 2017 had applied for grant of license. Learned counsel for the petitioners submits that the Commissioner has cancelled the license issued to the petitioners by considering the documents which the petitioners have not relied upon and as such the impugned order is required to be set aside and the license is to be revoked.

Per contra, learned counsel for the Siliguri Municipal Corporation submits that in spite of

having knowledge that Subodh Saha, Namita Saha and Uttam Saha had expired and the Municipal Corporation had issued license in the name of dead persons, the petitioners had not informed the same to the Corporation and the petitioners taking the benefit of the said license continued their business and when the Corporation came to know about the said fact and a complaint was made by the sister of the petitioners, the Corporation had conducted an enquiry and after the enquiry, the impugned order was passed. Counsel for the Corporation submits that as the license issued in the name of dead persons, the same cannot be revoked and the petitioners cannot continue with their business in the name of dead persons.

Considered the rival submission of the respective parties and perused the materials on record.

Admittedly, on 31st March, 2020 the Corporation had issued license in the joint name of Nomita Saha, Surja Saha, Subodh Saha, Uttam Saha but not in the name of Sanjeeb Saha though Sanjeeb Saha had made an application for grant of license in terms of the Deed of Partnership dated 1st April, 2017. After going through the record, this Court finds that Sanjeeb Saha who is one of the

partners had applied for grant of license but the Corporation in a routine manner had issued the license in the name of four persons named above without considering the application filed by the petitioners and as such it cannot be said that only the petitioners are responsible for the license issued by the Corporation in the name of the dead person.

In view of the above, the impugned order dated 26th March, 2021 passed by the Commissioner, Siliguri Municipal Corporation is set aside and quashed. The Commissioner, Siliguri Municipal Corporation is directed to consider the case of the petitioners afresh in terms of the application filed by Mr. Sanjeeb Saha initially being application no.5603 for the year 2017-18 and 2018-19 and subsequently for the year 2019-20.

The Commissioner, Siliguri Municipal Corporation is directed to complete the process by passing a reasoned and speaking order within a period of four weeks from the date of receipt of copy of this order after giving an opportunity of hearing to all the parties.

WPA No. 1196 of 2021 is thus disposed of.

(Krishna Rao, J.)