

OD-6

ORDER SHEET
WPO No.1497 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

TRIBHUBAN JADAV
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ANR.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 12th September, 2023.

Appearance:
Mrs. Mitali Bhattacharya, Adv.
...for Petitioner.

Mr. Srijan Nayek, Adv.
Mr. Dwijadas Chakraborty, Adv.
... for K.M.C.

Mr. Partha Pratim Roy, Adv.
Mr. Dyutiman Banerjee, Adv.
...for Private Respondent.

The Court:-Communication vide memo dated 05.06.2023 addressed to the petitioner forwarding the order of the Commissioner, Kolkata Municipal Corporation dated 27.02.2023 is impugned in the present writ petition.

The petitioner claims to be the owner of a tea stall beside Narkeldanga Main Road. The Commissioner passed an order for removal of the said stall.

The petitioner submits that the order of removal was passed without affording opportunity of hearing to the petitioner. The petitioner is running the stall for more than three decades from the same place as per hawker licence.

The petitioner asserts that he is running only one tea stall and the petitioner is in no way connected with the other stalls which are running from the same place.

Learned advocate representing the private respondent submits, upon instruction that, the petitioner runs three stalls from the same place. One of the stalls is causing serious obstruction in the free movement of vehicles and, accordingly, the said stall is liable to be removed from the said place.

Learned advocate representing the Corporation submits, upon instruction that, several notices were issued in favour of the petitioner for conducting hearing in the matter. The said notices returned 'un-served'.

It appears from the submissions made on behalf of all the parties that the petitioner, for some reasons whatsoever, could not attend the hearing.

Accordingly, the Commissioner or his delegate is directed to reconsider the issue of removal of the stall of the petitioner after conducting a spot enquiry to ascertain the obstruction that is being caused in the vehicular movement and thereafter grant an opportunity of hearing to both the parties. If the respondent authority is of the opinion that the stall is liable to be removed for ease of vehicular movement, then necessary order may be passed.

Steps shall be taken in the matter at the earliest, but positively within a period of eight weeks from the date of communication of this order.

Writ petition stands disposed of.

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

(AMRITA SINHA, J.)