

March 22, 2024
AD 40
Ct. No.14
SG

WPA 110 of 2024

Rabindranath Raptan
vs
The State of West Bengal and others

Mr. Rajendra Banerjee
Mr. Joy Chakraborty
Mr. Ranjit Malakar
... for the petitioner

Mr. Asish Kumar Guha
Mr. Benazir Ahmed
... for the State

Mr. Debangana Bhattacharjee
Mr. Mahiul Islam
... for the respondent No.9

Affidavit of service filed in Court is taken on record.

A copy of the order dated 14.09.2022 passed by the learned Executive Magistrate under Section 133 of Cr.P.C. as filed on behalf of the private respondent is also taken on record.

Report filed by the State is also taken on record.

Learned counsel appearing for the petitioner submits as follows. The private respondent is running an illegal business of manufacturing grill in the locality which is creating enormous noise and pollution. This has led to deterioration of health of the petitioner's wife for which medical assistance had to be sought. A complaint was made to the pollution control authorities, but no steps were taken. The police also did not take steps in spite of being notified.

Learned counsel appearing for the private respondent submits as follows. The private respondent has all necessary permission for running the business. The issue had come up before the learned Executive Magistrate in a proceeding under Section 133 of the Code. By an order dated 14.09.2022 it was recorded that as per the report of BMOH, Canning-I Block the said “Halder Construction” caused no significant pollution, health hazards and nuisance to public.

Learned advocate for the State relies on the report and submits that the police had earlier submitted a report in the said proceeding under Section 133 of Cr.P.C. by annexing a trade registration certificate of the respondent No.9. However, over the issue a proceeding has been initiated under Section 107 of Cr.P.C.

It appears from the report of BMOH in the proceedings under Section 133 of Cr.P.C. that there was no significant pollution, health hazards or nuisance caused to public by the activities of the private respondent.

It also appears from an earlier order dated 07.07.2022 passed by the Executive Magistrate that the private respondent was running the grill factory under the name and style of “Halder Construction” without requisite permission required for carrying on the grill factory i.e., clearance from the WBPCB was not available. According to the competent authority, orange category of

pollution certificate is required for running such type of business.

Therefore, the petitioner shall be at liberty to make a further representation before the concerned authorities of the WBPCB as also the police authorities about whether the private respondent was running the business without requisite permission or sanction of the WBPCB. The said representation shall be considered by the concerned authorities expeditiously and in accordance with law.

With these observations, the writ petition is disposed of.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

Parties shall act on server copy downloaded from the official website of this Court.

[Jay Sengupta, J.]