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29.02.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 1642 of 2024

Tarun Bhattacharya & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Tanmoy Chowdhury,
Ms. Ritoprita Ghosh
...for the petitioners

Mr. Sk. Md. Galib,
Mr. Abu Siddique Mallik
...for the State

Mr. Arjun Roy Mukherjee,
Ms. Debaprita Mitra
...for the WBPCB

Mr. Sharanya Chatterjee,
Mr. Subham Ghosh,
Mr. A, Ghoish
...for the respondent nos. 7 and 8

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel for the petitioners alleges that the petitioners live in a densely populated area in Domjur, District-Howrah. The private respondents have been running a furniture manufacturing business, which falls within the 'green' category. However, the petitioners and the entire neighbourhood are suffering since the work goes on late into the night and there is high decibel noise emanated from the said unit. That apart, it is

alleged that due to the dust and toxic gases and the by-products of burning of the refuse of the said unit, the nearby residents are living miserably, which is directly affecting their right to live a life of quality.

3. Learned counsel for the West Bengal Pollution Control Board (WBPCB) submits that the matter has come up to the WBPCB several times and lastly, vide Memo No. 5L/WPB-2023/N-3703 dated September 07, 2023, certain directions were issued to the private respondents, including a direction to the private respondents to obtain all statutory licenses including trade license of the local authority, consent to establish and consent to operate of the State Board and to operate only after obtaining consent to operate of the State Board.

4. Learned counsel for the private respondents submits that the private respondents have been operating the unit with valid trade licence.

5. However, upon a composite perusal of the materials on record and hearing learned counsel for the parties, it transpires that the unit does not, as yet, have any consent to establish and/or consent to operate from the WBPCB, which should be a sufficient deterrent for the unit to run the said furniture manufacturing business.

6. Hence, unless such consents are obtained by the private respondents, there is no scope of permitting the said entity to continue running the unit.

7. Accordingly, W.P.A. No. 1642 of 2024 is disposed of by restraining the private respondents from running the furniture manufacturing business under the name and style of M/s. Nath Furniture & Workshop or otherwise, without complying with the directives given by the WBPCB vide Memo No. 5L/WPB-2023/N-3703 dated September 07, 2023. In particular, the private respondents shall obtain consent to establish and consent to operate of the WBPCB as well as have a valid trade licence, which they claim to have, prior to commencement of further operation of the Unit.

8. However, it is made clear that such restraint order shall prevail only up to and subject to an order being passed by the WBPCB recording its satisfaction regarding compliance of the said directives as contained in the Memo referred to above, including the private respondents having consent to establish and consent to operate the said unit.

9. The private respondents will be at liberty to approach the appropriate authority for obtaining such consents and the necessary papers for

running their business and, immediately after obtaining the same, to approach the WBPCB to get necessary permission to re-operate the business.

10. Upon such an approach being made by the private respondents, the WBPCB shall ascertain the documents produced by the private respondents to satisfy themselves that all pollution control norms have been complied with. For such purpose, the WBPCB shall give a hearing to the private respondents as well as the present petitioners and take a decision thereon as expeditiously as possible, positively within three weeks from such approach being made by the private respondents to the WBPCB.

11. There will be no order as to costs.

12. 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.