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**WPA 12292 of 2024
With
WPA 23852 of 2024**

**Nibedita Hazra
Vs.
State of West Bengal & Ors.**

**Mr. Arun Kumar Maiti(Mohanty)
Mr. R.R. Mohanty
Ms. O. Mukherjee
Mr. S. Saha
Ms. P. Chowdhury For the Petitioner.**

**Mr. Jhuma Chakraborty
Mr. S. Adak ... For the State.**

Mr. Dhananjay Nayek .. For the Private Respondents.

In view of the interconnected questions of law and fact which arise for consideration, both these writ petitions are heard analogously by consent of the parties.

The grievance of the petitioner(s) is directed against unlawful and illegal issuance of a trade license in favour of the private respondent. It is alleged that the mother of the petitioner had let out two rooms on the ground floor of the subject premises which is a residential complex to one Ranjan Das, the predecessor in interest of the petitioner.

Pursuant to the above, the said respondent Mr.
S.D. Das started carrying on cloth business at the subject premises. Subsequently, the said Ranjan Das expired in or about September, 2020. It is alleged that the private

respondent being one of the heirs of the said Ranjan Das has been carrying on the said business from the subject premises without any lawful permission. The grievance of the petitioner is directed against the illegal and unlawful issuance of a trade license in favour of the one of the heirs of the said Ranjan Das.

It is contended on behalf of the petitioner that in view of the extant provisions, the modality for obtaining a license have been morefully set out in a Circular dated 7th October, 2021 which provides as follows:-

“a. Only 2(two) documents viz. Identity proof of the applicant (EPIC/Aadhaar/PAN card/Passport etc.) and proof of occupancy/ownership of the business address (Property Tax bill/receipt/Deed of conveyance/Lease Deed/sub-lease Deed/Leave and License agreement/Rent Agreement/Rent receipt/NOC of the landlord(if rent is free)/electricity Bill/Telephone Bill in respect of the place of business and in the name of the applicant) will be required.

b. It will be responsibility of the applicant to obtain the certificates of statutory compliances with other laws viz. Fire, Pollution Control Board, Clinical Establishment, Excise, Police, Customs, RBI, SEBI etc. separately. A self-declaration to that effect will be submitted by the applicant at the time of making application.

c. The category-wise names of lawful trades and the amount of fees to be charged for issuance of certificate of registration will be made available in the webportal of this Department.

d. The certificate of registration will be issued for three years at a time and its renewal will also be made for three years at a time.

e. No further document will be required for renewal of the existing certificate of registration.”

In this background it is alleged that the

impugned trade license could not have been issued in accordance with the above provisions and the same have been illegally and unlawfully issued.

On behalf of the private respondent, it is submitted that the disputes raised by the petitioner are purely civil in nature and the petitioner is in a circuitous manner trying to evict the respondent.

The State Respondents are represented and submit that the modalities for obtaining a license have been complied with and there is no infirmity in the issuance of the said license.

It is evident from the Circular dated 7th October, 2021 that prior to issuance of a license, a leave and license agreement/rent agreement/rent receipt/NOC of the landlord is mandatory.

Admittedly, the respondent has not been able to demonstrate that any of the above documents were available with the private respondent or have been furnished to the concerned authority. There is also an allegation of non-payment of occupational charges for more than four years post the death of the said Ranjan Das. Liberty is granted to the petitioner to take necessary steps for recovering of outstanding rental arrears in accordance with law, if so advised.

However, insofar as the grievance of the petitioner as to wrongful and unlawful issuance of license is concerned, neither the State nor the private respondent

have been able to demonstrate that any of the modalities as set out in the Notification dated 7th October, 2021 have been complied with. There is gross arbitrariness and illegality in the issuance of the said impugned trade license. There has been no application of mind by the Authorities in issuing the impugned trade license and the same has been issued without application of mind.

In view of the above, WPA 23852 of 2024 stands allowed.

The impugned trade license stands cancelled. The concerned authority being the respondent no. 4, in WPA 23852 of 2024 is directed to consider the matter afresh in accordance with law. With the above directions, both the above writ petitions stand disposed of.

Liberty is granted to the private respondent to make a fresh application in accordance with law. If such application is made the same shall be considered within a period of two weeks from the date of filling of such application and after giving a right of hearing to all the parties including the writ petitioner in accordance with law.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of necessary formalities.

(Ravi Krishan Kapur, J.)

