

Item No.2
20.08.2024
Court. No. 9
GB

W.P.A. 20815 of 2024

Rabi Ghosh

Vs.

The State of West Bengal & Ors.

*Mr. Sukanta Chakraborty,
Mr. Jyoti Prakash Chakraborty*

...for the Petitioner.

*Mr. Vivekananda Bose,
Ms. Debangana Dey Nayak*

...for the State.

*Mr. Sounak Bhattacharya,
Mr. Abhirup Halder*

...for the Respondent Nos.2 to 10.

Mr. Apurba Kumar Datta

...for the Respondent No.15.

*Mr. Arka Maiti,
Ms. Gulsanwara Pervin*

...for the Respondent No.16.

1. The writ petition has been filed challenging some actions of the Asansol Municipal Corporation. The first challenge is to the decision of the Asansol Municipal Corporation to hold an auction cum bid for lease of parking lots. The notice was issued on July 29, 2024. Bids have been invited for lease of the parking lots under the Asansol Municipal Corporation on August 20, 2024 from 11 a.m. to 2.30 p.m. for lots under Annexure 'A', on August 21, 2024 from 11 a.m. to 2.30 p.m. for lots under Annexure 'B' and on August 22, 2024 from 11 a.m. to 2.30 p.m. for lots under Annexure 'C'. Descriptions of the parking lots are in the Annexures to the notice.
2. The petitioner was the existing lessee in respect of the parking lot at G.T. Road (Lachipur parking) in front of

Disha Centre. The contract was entered into between the petitioner and the Asansol Municipal Corporation. It appears that the licence for allotment of parking lots at Lachipur area, under one umbrella, on lease basis, was issued to the petitioner on August 7, 2023 for a period of 11 months.

3. It is the contention of the petitioner that the lease should be extended and the fresh auction notice inviting bids from eligible bidders, should be cancelled on the following grounds:-

a) As two private parking lots were being operated by the respondent nos.15 and 16, the petitioner had lost out on the business, as a result of which the petitioner could not collect the parking fees in order to pay back the lease rent to Asansol Municipal Corporation. The cancellation of the lease of the petitioner and the demand notices were thus, contrary to the terms and conditions by which the corporation was also bound under the contract.

b) The corporation should have taken specific action to ensure that the petitioner had free access to the parking lot. The corporation should have facilitated collection of parking fees from vehicles which were parked in the area. The corporation failed to provide adequate support, man power and free site to the petitioner to operate the parking lot.

This resulted in loss of business. The petitioner could not earn any money and as such, was not liable to pay the lease rent to the corporation. The corporation illegally permitted the private parking.

c) As the vehicles were not using the petitioner's parking lot, the petitioner could not earn any revenue. He should be allowed to continue with the operation of the parking lot till he recovers the losses.

4. It is also contended that the demand notices should be set aside along with the notice inviting bids for the above reasons and the petitioner should be allowed to continue with the operation of the parking lot, so that the petitioner can not only make good the losses suffered, but also be in a position to pay back the lease rent to the corporation during such extended time to be afforded by the corporation.
5. The learned advocates for the respondent nos.15 and 16 submit that they are running private parking from their own land. This submission is, however, disputed by both the learned advocates for the petitioner and the corporation.
6. In any event, the fact that the private parking lots were getting the maximum number of vehicles and were collecting parking fees from them, cannot be a ground for setting aside the auction notice. The period for which the parking lot was allotted to the petitioner,

was 11 months. Such period has expired. The corporation was within its right to issue a further auction notice and hold a fresh auction. The petitioner is at liberty to participate in the said process.

7. The issue as to whether the parking lots could be operated privately by the respondent nos.15 and 16, are not germane for consideration in this proceeding. The corporation has the right to go for a fresh auction once the period for which the petitioner was granted lease, had expired.
8. The other contention of Mr. Chakraborty that owing to the illegal parking, losses were incurred which resulted in non payment of rent to the corporation, is a dispute which has to be resolved as per the dispute resolution clause. If such resolution fails, the petitioner may also approach the civil court challenging the demand made by the corporation on the above ground. The allegation that the corporation failed to provide the site to the petitioner free from all encumbrances, and owing to such negligence of the corporation and its tacit support the private players operated their private parking lots, are not considered, but left open to be agitated before the appropriate forum.
9. Either the matter can be amicably settled as per the dispute resolution clause in the Notice Inviting Tender or the petitioner may sue the corporation for damages

and also pray for setting aside the demand. Such suit shall be decided independently.

10. Under such circumstances, the writ petition is disposed of.
11. This order shall not be construed as a declaration of the Court on the legality of the business of the respondent nos.15 and 16 as those are not relevant for disposal of this writ petition.
12. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)