

AD-03
Ct No.09
24.04.2024
TN

WPA No. 23959 of 2022

Pankaj Kumar Manna
Vs.
The State of West Bengal and others

Mr. Saptanshu Basu,
Mr. R. I. Sardar

.... for the petitioner

1. Despite service of a copy of the writ petition as well as the notice of upgradation, which are borne out by the affidavit-of-service and receipt filed in court today, none appears for the respondents at the time of call.
2. Learned senior counsel appearing for the petitioner submits that previously there was a writ petition filed where it was alleged that the petitioner is encroaching on highway land. Although the learned Single Judge passed an order of eviction of the petitioner, the said order was subsequently stayed by the appellate court. An appeal at the behest of the National Highway Authority, it is submitted, is also pending.
3. In the interregnum, since the petitioner is running a medicine shop at the subject premises, the petitioner applied for renewal of the petitioner's licence for running the said shop which is annexed at page-54 (Annexure P-8) of the writ petition. However, no response was given by the respondent-authorities to the said application, apparently on the basis of the allegations levelled

against the petitioner regarding the purported encroachment of land.

4. It is evident that the application for renewal of a drug licence/pharmaceutical licence on a property which is admittedly occupied by the petitioner and for running which business the petitioner previously had a licence, cannot have any connection with allegations of illegal encroachment made against the petitioner.
5. In the event it is ultimately found in the pending appeals that the petitioner is an illegal encroacher and/or the respondent-authorities are of the opinion that the petitioner's occupation is not lawful, it would be open in any event to the respondents to take out appropriate proceedings for eviction under the law. However, unless such a proceeding is initiated and a final order is passed therein, the petitioner's occupation cannot be denied, nor can it be denied that the petitioner has been enjoying a licence by virtue of which the petitioner has been running the medicine shop.
6. Thus, it is the respondents' incumbent duty to decide on the application made by the petitioner and to renew such licence if the petitioner is otherwise entitled to such renewal.
7. Accordingly, WPA No. 23959 of 2022 is disposed of by directing the respondent no. 3 to process the application for renewal of licence of the petitioner annexed to the writ petition and take a decision thereon within a fortnight from the date of communication of this order to

the said respondent by acting on a server copy of this order.

- 8.** It is made clear that if the petitioner is otherwise entitled to have such renewal on the legal parameters applicable thereto, the respondent no. 3 shall issue the renewal to the petitioner at the earliest thereafter, without being prejudiced by the fact that in the perception of the respondents the possession of the premises of the petitioner may not be lawful, which will be the subject-matter of an independent proceeding, if taken out at all in terms of the observations made above.
- 9.** There will be no order as to costs.
- 10.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)