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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA/2859/2023

UMESH AGARWAL
VS
STATE OF WEST BENGAL AND ORS

Mr. Ajay Singhal
Mr. Abhishek Singh
...For the Petitioner
Mr. Subir Kr. Saha, AGP
Mr. Pradip Sarkar
...for State
Mr. Anirban Banerjee
....for respondent nos.5&6
Ms. Rima Sarkar
...for respondent no.8

The petitioner is aggrieved by the inaction on the part of the Kalimpong Municipality in taking steps in response to the representation filed by the petitioner alleging change of user of the premises by the private respondent.

Specific submission of the petitioner is that the private respondent is carrying on business from domestic place without obtaining any licence from the municipality.

Further grievance of the petitioner is that, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is not taking any steps in response to the complaint lodged by the petitioner against the unauthorized use of electricity by the private respondent. The electricity meant for domestic use is being used by the private respondent for running business.

Learned advocate representing the WBSEDCL submits, upon instruction that, on receipt of the

complaint from the petitioner, an enquiry was conducted. It revealed that the private respondent was using the domestic connection for commercial purpose. A notice has been issued to the private respondent to apply for conversion of the electricity connection from domestic to commercial. The private respondent though made the application for conversion, but could not produce any document in support of the application made.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that there is a long standing dispute between the petitioner and the private respondent. The first floor of the subject premises is being used for domestic purpose and the ground floor is being used as a godown.

The private respondent submits that he is carrying on business from a different place and not from the subject premises.

As it appears that the complaint lodged before the Kalimpong Municipality pertaining to unauthorized use of the subject premises is pending consideration at the end of the Municipality, accordingly, the Municipality is directed to consider the said objection filed by the petitioner upon giving reasonable opportunity of hearing to both the parties to disclose their respective stand. A spot inspection shall be conducted by the Municipality to ascertain as to whether any commercial activity is being carried on from the premises named as "Sitaram Building", 10th Mile, R.C. Mintri Road, P.O., P.S. & Dist. Kalimpong.

If the Municipality finds that there has been change in the use of the subject premises which is contrary to law, then necessary steps shall be taken in the matter in accordance with law.

The Divisional Manager, Kalimpong Division, WBSEDCL is directed to take necessary consequential steps as it has been detected that the private respondent is using the electricity meant for domestic use, for commercial purpose.

Both the aforesaid respondents shall take steps in the matter at the earliest, but positively within a period of eight weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)