

ORDER SHEET

WPO/329/2024  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

SABIHA DANISH  
VS  
THE STATE OF WEST BENGAL AND ORS.

BEFORE:  
The Hon'ble JUSTICE AMRITA SINHA  
Date: 25<sup>th</sup> April, 2024.

Appearance:  
Mr. Debanik Banerjee, Adv.  
Mr. Steven S. Biswas, Adv.  
...For the Petitioner

Mr. Biswajit Mukherjee, Adv.  
Ms. Susmita Chatterjee, Adv.  
...For the KMC

Ms. Tuli Sinha, Adv.  
...For the State

Mr. Joyak Kumar Gupta, Adv.  
Mr. Sutanu Chakraborty, Adv.  
Mr. Asique Rosul, Adv.  
...For the private respondent

The Court: The matter relates to removal of the fast food centre which is running encroaching the public footpath.

The men and agents of the Corporation inspected the site and found that the footpath was encroached for conducting the business. Licence Officer passed order on 6<sup>th</sup> February, 2024 by directing the private respondent to remove the encroachment and cancelled the certificate of enlistment with immediate effect.

The grievance of the petitioner is that despite order being passed by the Licence Officer, the private respondent is continuing with the business encroaching the footpath.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that the encroachment has already been removed. It is a private dispute between the landlord and the tenant and the landlord petitioner in collusion with the municipal authorities is taking steps to evict the private respondent from the said place without the due process of law.

Learned advocate representing the Corporation has relied on instruction forwarded by the Licence Officer and the Licence Inspector of Ward No. 47 signed on 19<sup>th</sup> April, 2024 wherefrom it appears that a physical inspection was conducted on 18<sup>th</sup> April, 2024 and it was found that the business is running there encroaching upon the public footpath in flagrant violation of the order passed by the Licence Officer.

As it appears from the recent inspection by the Corporation that the footpath is being encroached for running the business, accordingly, Licence Officer is directed to take steps for removal of the encroachment from the footpath with the assistance of the Officer-in-Charge, Bowbazar Police Station.

The Officer-in-Charge, Bowbazar Police Station is directed to render all necessary cooperation to the men and agents of the Corporation for removal of the encroachment.

It is, however, made clear that it will be open for the private respondent to remove the encroachment from the footpath voluntarily.

The authorities are directed to act at the earliest but positively within the period of four weeks from the date of communication of this order.

The writ petition stands disposed of.

Report of the Officer-in-Charge, Bowbazar Police Station signed on 18<sup>th</sup> April, 2024 be retained with the records.

Affidavit of service filed in Court is kept on record.

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

(AMRITA SINHA, J.)

TR/

