

12.08.2025
Sl. No. 44
Ct No. 3
SG

WPA 1737 of 2023

**Bidyut Roy
Vs
The State of West Bengal & Ors.**

Mr. Debdutta Basu,
Mr. Sudip Sarkar,
Mr. Labanyamay Sarkar.

...for the petitioner

Mr. Sirsanya Bandyopadhyay,
Mr. Tirthankar Dey,
Mr. Arka Kumar Nag.

...for Corporation

Mr. Raghunath Chakraborty,
Ms. Amrita De.

...for respondent no. 4

1. The petitioner has preferred the present writ petition, being aggrieved by the impugned order dated 26.11.2022 passed by the Commissioner of the respondent-Corporation, whereby a decision has been taken not to renew or issue the certificate of enlistment in respect of the business operated under the name and style 'M/s Roy Auto Centre'. By the impugned order the petitioner was directed to seize all forms of commercial activity under the said business name at the premises situated at BE-1, Sector 1, Salt Lake City, Kolkata.

2. It is the case of the petitioner that he was initially operating the said business as a partnership

firm along with his brother from the aforementioned tenanted premises. The brother of the petitioner namely Biman Roy died on 27.06.2004. Upon the demise of his brother, the petitioner and the private respondent no. 4 i.e. the wife of the brother of the petitioner, entered into a Deed of Partnership (Amended) on 27.07.2004 for carrying on a partnership business under the name and style of 'M/s. Roy Auto Centre'. Subsequently, the petitioner and the private respondent executed a Deed of Dissolution on 01.04.2005 and by virtue of the said Deed of Dissolution the private respondent retired from the said partnership business. Thereafter, the said partnership business converted into a proprietorship business and the petitioner became sole proprietor of the said business under the name and style 'M/s. Roy Auto Centre' and obtained all necessary statutory approval and licences, including the certificate of enlistment for the year 2005-2006 from the respondent-Corporation for the said proprietorship concern, which was renewed time to time upto the financial year 2017-18.

3. Learned Counsel for the petitioner states that he has applied for the renewal of the certificate of enlistment for the subsequent years, the same was not renewed. He further submits that upon inquiry, the

petitioner came to learn that the private respondent had submitted a complaint dated 01.06.2018 objecting the renewal of the certificate of enlistment. Thereafter, the private respondent instituted WPA 2465 of 2020 before this Court, which was disposed of by order dated 18.07.2022 with a direction upon the respondent no. 3 to consider the pending representation dated 05.10.2021, strictly in accordance with law, after affording the reasonable opportunity of hearing to the petitioner as well as the private respondent within a period of three months from the date of communication of this order and passed a reasoned order and communicate the same to the parties immediately thereafter. This Court also clarified that the respondent-Corporation was not required to adjudicate any private dispute between the parties. Pursuant to the direction of this Court, the respondent-Corporation heard the parties and in compliance with the order of this Hon'ble Court passed the impugned order dated 26.11.2022, rejecting the petitioner's application for renewal of certificate of enlistment and directing to stop all sorts of commercial business forthwith in the name and style as 'M/s. Roy Auto Centre'.

4. Learned Counsel for the petitioner contends that the scope of the impugned order dated 26.11.2022 was confined to the limited issue of examining

administrative aspect of trade licence application. This Court vide order dated 18.07.2022 in WPA 2465 of 2020, had strictly precluded the respondent-Corporation from delving into any inter se private dispute between the parties. Further, the impugned order oversteps this mandate and proceeds to make findings concerning the validity of the dissolution of the partnership deed, thereby travelling beyond its jurisdiction.

5. Learned Counsel for the respondent-Corporation submits that the petitioner had failed to submit the rent agreement concerning the tenanted premises and has violated certain clauses of the impugned partnership deed. It is, therefore, contended that the petitioner is not entitled for renewal of the certificate of enlistment and the impugned order has been rightly passed, whereby the Commissioner has not renewed the certificate of enlistment and has issued an order for cessation of business activities.

6. Learned Counsel for the private respondent states that the petitioner had forged the signatures on the deed of dissolution and that the private respondent had never signed any deed of dissolution. He further states that the petitioner has been illegally running the said business from the date of demise of her husband and has not adhered to the terms and conditions of the

deed of dissolution. Learned Counsel for the private respondent further submits that the Co-ordinate Bench of this Court in WPA 2465 of 2020 vide order dated 18.07.2022 had directed the Corporation to decide petitioner's representation which has been duly considered by the Commissioner of Bidhannagar Municipal Corporation. Accordingly, the impugned order has been passed in compliance with the said direction.

7. This Court has heard the arguments advanced by the learned Counsel for the parties and perused the materials placed on record. It is not in dispute that the petitioner had been granted the certificate of enlistment for the proprietorship concern from the year 2005-06, which continued to be renewed until 2017-18. The objection to further renewal emanates from the complaint lodged by the private respondent who disputes the validity of the partnership dissolution.

8. A bare reading of the impugned order dated 26.11.2022 reveals that the respondent-Corporation exceeded its jurisdiction by examining the terms of the amended partnership deed and rendering a finding on its alleged violation. This issue falls squarely within the realm of private dispute between private parties and are not within the competence of a municipal authority to adjudicate upon particularly when such

adjudication stands expressly prohibited by the Court's earlier order dated 18.07.2022 in WPA 2465 of 2020. The questions concerning the validity of deed of dissolution, the issuance of proper notice and the execution thereof by the private respondent are disputed question of facts which lie exclusively within the domain of the competent Civil Court and cannot be adjudicated upon by the respondent-Corporation while exercising its administrative functions.

9. In view of the above, this Court is of the considered opinion that the impugned order dated 26.11.2022 is vitiated by an error of jurisdiction and is liable to be set aside. Accordingly, the impugned order dated 26.11.2022 is hereby set aside and the matter is remanded back to the Commissioner, Bidhannagar Municipal Corporation for fresh adjudication on the issue of renewal of petitioner's certificate of enlistment, strictly in accordance with the directions contained in WPA 2465 of 2020 without entering into any inter se private dispute between the parties. The Commissioner, Bidhannagar Municipal Corporation is directed to give a fresh hearing to both the parties and pass reasoned order after affording an opportunity of personal hearing to both the parties within a period of eight weeks from the date of communication of this order.

10. With the above direction, the present writ petition is disposed of.

11. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

12. There shall be no order as to costs.

13. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)