

289 **21.11.
2025**

Ct. No.
551

Ab

WPA 2209 of 2025

Sri Dinesh Thakur

Vs.

State of West Bengal and others.

Mr. Subhasish Pachhal.

... for the petitioner.

Mr. Ayan Banerjee,

Mr. Dhiman Banerjee.

... for the respondent nos. 2 to 6.

1. The petitioner alleges inaction on the part of the respondents in considering the petitioner's request for providing space for erecting Stall No. 4K at 1, I.C. Bose Road, Howrah, upon accepting the licence fees and issuing bills in the name of the petitioner.
2. It is submitted by the learned Advocate appearing on behalf of the petitioner that the petitioner is a partner of a partnership firm, which had earlier been allotted a space for stall (hereafter "the stall") bearing no. 4K at 1, I.C. Bose Road, Howrah. It is submitted that despite the stall being granted in favour of a partnership firm whereof the petitioner and one Bindeswar Chowdhury were partners, bills claiming licence fees were all along issued in the name of only one of the partners, namely, Bindeswar Chowdhury.
3. It is then submitted that during construction of the Howrah Fish Market, the entire area including the place where the said stall was situated was

reorganized and in the process of such reorganization, the said stall was dismantled. Since then, the petitioner has been without any stall. The other partner of the partnership firm, namely, Bindeswar Chowdhury, in whose name bills claiming licence fees had been issued earlier, retired from the partnership firm in the meantime and he is presently no more. It is further submitted that thereafter the petitioner made several representations before the respondents requesting them to record the petitioner's name in respect of the said stall that had been allotted to the partnership firm, as aforesaid upon accepting licence fees (both arrears thereof as well as current) from the petitioner but none of the representations have been considered.

4. Mr. Banerjee, learned Advocate appearing on behalf of the respondent nos. 2 to 6, submits that the petitioner has no right to claim any allotment of stall or to get his name recorded in respect thereof inasmuch as the earlier licensee was issued in the name of Bindeswar Chowdhury and not the petitioner. It is further submitted that since the petitioner has no right, he cannot be granted any such stall. It is also submitted that even after retirement of Bindeswar Chowdhury from the partnership firm, the licence fees

continued to be paid in the name of said Bindeswar Chowdhury only.

5. It is submitted by the petitioner in reply that he has the partnership deed in possession and he can show that he has right to claim the stall on behalf of the partnership firm as licensee.
6. Having heard the learned Advocates for the respective parties and having considered the material on record, this Court is of the view that since the petitioner has made representations asserting his right which the respondent KMDA is now disputing, it would be proper for the respondent KMDA to deal with the petitioner's representation and take an informed decision. The issue as regards the petitioner's entitlement should be decided by the KMDA itself at the first instance and not this Court under Article 226 of the Constitution of India.
7. In view of the aforesaid, the respondent no. 6 i.e. the Officer on Special Duty and Executive Officer, Senior Deputy Secretary, H.I.T. Wing, KMDA, is requested to consider and dispose of the petitioner's representation dated June 28, 2023 (Annexure- 'P4' at pages 45 to 46 to the writ petition) within a period of six weeks from the date of communication of this order, strictly in accordance with law, after giving an opportunity of

hearing to the petitioner.

8. Needless to say that the petitioner shall be free to produce such documents as he wishes to in support of the right that the petitioner asserts. The respondent no. 6 shall also be free to call for such further documents that may be required for the purpose of taking a decision on the petitioner's representation.
9. It is clarified that this Court has not gone into the merits of the case and this order shall not be treated as a declaration or negation of any right or a command to allot any stall to the petitioner without assessing the petitioner's entitlement thereto in law.
10. The respondent no. 6 shall dispose of the petitioner's representation within the aforesaid time by passing a reasoned order and shall communicate the same to the petitioner within a week from the date of passing thereof.
11. As affidavit-in-opposition has not been called for, allegations made in the writ petition against the respondents shall be deemed not to have been admitted by them.
12. WPA 2209 of 2025 stands disposed of.

(Om Narayan Rai, J.)

