

10.11.2025
Ct. 3
Item No.
AD 1
Saswata

WPA 3465 of 2025

**Rajat Suvra Roy
Versus
The State of West Bengal & Ors.**

Mr. Arjun Roy Mukherjee
Mr. Kausheyo Roy
Mr. Joyjeev Medhi
... For the petitioner

Mr. Sourav Chowdhury
Ms. Ujjani Pal (Samanta)
...For the State

Mr. Sayan Sinha
Mr. Adil Naser
...For the respondent nos. 2 to 5
Mr. Moyukh Mukherjee
Ms. Sagnika Banerjee
Ms. Sarmistha Basak
Mr. Kaustav Bhattacharyya
...For the respondent no. 6

1. The instant writ petition has been filed, inter alia, challenging a notice dated 12th March 2024 passed by the Newtown Kolkata Development Authority (hereinafter referred to as the “development authority”), whereby on the basis of a field report, the petitioner was restrained from running the business of a guest house run under the name and style of BH Boutique from premises no. 19-0293, plot no. DD/225, Action Area – ID, New Town, Kolkata – 700156 (hereinafter referred to as the “said property”).
2. The petitioner claims to be a co-owner of the said property along with the private respondent no. 6 who happens to be the wife of the petitioner. Apparently, the relationship between the petitioner and the private respondent no. 6 is at

present strained. It transpires that the said development authority had sanctioned a plan for construction on the said plot. As per the ground floor sanction plan which has been disclosed in the writ petition, it would transpire that a portion of the ground floor of the aforesaid property adjacent to the covered car parking has been earmarked and identified as a shop room. According to the petitioner the petitioner has been running a “Bed and Breakfast” business under the name and style of BH Boutique from the aforesaid shop room. According to the petitioner the same had the sanction of the development authority, as would corroborate from the certificate of enlistment issued by the said development authority effective for the financial year 2018-19 onwards until the time hereinafter mentioned. The aforesaid certificate of enlistment was renewed from time to time and was valid up to 31st March 2023.

3. In the meantime the petitioner by relying on a notification dated 14th July 2015, issued by the Principal Secretary to the Government of West Bengal had sought for permission for utilization of 40 per cent of 1st and 2nd floor area of the aforesaid property for non residential (commercial) use. According to the petitioner although, the aforesaid application is pending with the authorities, however, subsequent to filing

of such application all on a sudden, the notice dated 12th March 2024 has been issued.

4. According to the petitioner the petitioner has since been able to obtain a certificate from the West Bengal Fire and Emergency Services which forms the enclosure to the writ petition. The petitioner complains that the respondents are denying the petitioner the right to carry on trade and business in the said property in a lawful manner and as such, being aggrieved, the petitioner has approached this Court. In fact, the application for renewal of the Certificate of Enlistment is still pending.
5. Mr. Mukherjee, learned advocate appearing for the private respondent no. 6 on the other hand, would submit that pursuant to the order passed by a Coordinate Bench of this Court in WPA 5205 of 2025 at the instance of the said private respondent, the Hon'ble Court had directed the said authority to enforce the notice dated 12th March 2024 and accordingly, any order passed herein would interfere with such direction.
6. Mr. Sinha, learned advocate appearing for the development authority would submit that though the sanction was granted by the said authority for commercial use, however, the same was only restricted to a portion of the ground floor. Since, it was detected that the petitioner was carrying on commercial activities from the entirety of the said building, the aforesaid notice had been issued.

According to Mr. Sinha today the petitioner cannot be permitted to run the business since requisite license from the fire department has not been issued.

7. Having heard the learned advocates appearing for the respective parties I find that admittedly the sanction was obtained on the basis of concurrence of the co-owners of the said property which, inter alia, includes the petitioner and the private respondent. It transpires that there is a marital discord. Though, the petitioner was originally granted permission to run the “Bed and Breakfast” business from the ground floor of the aforesaid property, however, since it was detected by the respondents that the petitioner was carrying on business from the entirety of the said premises, a notice dated 12th March 2024 had been issued. On such ground, I am of the view that that authority cannot be faulted. However, since the learned advocate appearing for the petitioner would submit that the petitioner was all along interested to continue its business from the earmarked portion of the ground floor, pending disposal of its representation before the authority for grant of permission of 1st and 2nd floor of the building in terms of his representation dated 6th February 2024 and has now undertaken to continue his business restricted to the earmarked ground floor portion, I am of the view that the authorities themselves having granted permission

to the petitioner to construct the building and continue his business and the petitioner, prima facie having established that he had obtained a certificate from the West Bengal Fire and Emergency Services, Government of West Bengal, the authority cannot stand in the way of the petitioner to carry on business activity from the shop room as delinquent in the plan sanctioned by the authority on 20th July 2017 till such time a decision is taken by the authority on the petitioner's application dated 6th February 2024.

8. Though, the private respondent has relied on the order dated 18th March 2025, I find from such order that no decision has been taken on merits as regards challenge to the notice dated 12th March 2024 or the right of the petitioner to continue its business from the ground floor of the said building. The Coordinate Bench had only directed the authority to enforce its notice dated 12th March 2024, since it was submitted that the petitioner was carrying on business without proper documents. In the light of the above, the order dated 18th March 2025 does not interfere with the petitioner's right to carry on business in a lawful manner.
9. However, since an issue of permit by the West Bengal Fire and Emergency Services requires to be taken into consideration by the development authority, I direct that a decision in this regard shall be taken by the authority not later than 4

weeks from the date of communication of this order. If it is found that the petitioner is otherwise eligible to carry on business from the ground floor portion, the permission to carry on such business should not unnecessarily be held back. The decision in this regard must be taken within 4 weeks from the date of communication of this order.

10. The respondents shall at liberty to consider the petitioner's representation dated 6th February 2024 in accordance with law within a period of 6 weeks from the date of communication of this order.
11. With the above direction and observation, the writ petition is disposed of.
12. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)