

30.06.2025
Sl. No.1
akd

W. P. A. 4714 of 2025

[Ananda Sarkar &Ors. -Vs- The State of West Bengal &Ors.]

Mr. Parashar Baidya
Mr. Soham Banerjee
... .. for the petitioners

Mr. Surya Prasad Chattopadhyay
Mr. Arjun Samanta
... .. for respondent nos.4 & 5
[Krishnanagar Municipality]

Mr. Gaurav Das
Ms. Sanehayita De
... .. for the State

1. Exception to the report filed by the Chairman, Krishnanagar Municipality is taken on record.
2. The petitioners, asserting themselves to be street vendors engaged in vending activities from temporary stalls located between A.V. High School More to Amin Bazar More, Krishnanagar, Nadia, have approached this court by way of the present writ petition. They seek issuance of an appropriate writ particularly a writ in the nature of mandamus, directing the respondent-Krishnanagar Municipality to consider their representations dated 12.02.2025 and 17.02.2025 respectively, and further to restrain the respondent-Municipality from taking any coercive action towards their eviction from the said site, thereby allowing them to continue their vending activities.
3. It is the case of the petitioners that they have been carrying out vending activities in the said area for the past four decades. Initially, they had been operating from permanent structures within the local market premises. However, though structures were allegedly demolished by the respondent-Municipality on 26.07.2024, following which the petitioners

resumed their livelihood by erecting temporary stalls in the vicinity. It is contended by the petitioners that despite their long standing presence, the respondent-Municipality have been continuously threatening them for eviction, which has created a state of uncertainty and hardship for them. The petitioners claims that they are entitled for the protection under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and accordingly have submitted representations dated 12.02.2025 and 17.02.2025 respectively seeking regularization of their vending activities. However, till date, the petitioners have not received any response on their aforesaid representations, thus, prompting them to invoke the writ jurisdiction of this court.

4. The respondent-Krishnanagar Municipality has filed report opposing the reliefs sought by the petitioners. It is contended therein that the petitioners have encroached upon public roads and drains by erecting unauthorized temporary structures, thereby obstructing pedestrian and vehicular movements. It is further pointed out that the area in question lies adjacent to A.V. High School, Krishnanagar, Nadia and that the encroachments are causing significant inconvenience to school going children as well as general public, especially during opening and closing hours of the school when the area experiences heavy congestion. It is stated that the prior permanent structures were removed after following due procedure including repeated public announcements over a span of fifteen days requesting voluntary removal. When the petitioners failed to comply, the respondent-Municipality took necessary steps to clear the encroachments in the interest of public safety and urban order.

5. This Court has heard the arguments advanced by the learned Advocates for the respective parties and perused the materials on record.

6. At the outset, it is the statutory obligation of municipal authorities to maintain public spaces such as roads and drains free from obstruction and unlawful encroachments. Simultaneously, the right to livelihood, particularly of street vendors who depend upon public spaces for their subsistence, must also be given due regard as recognized by the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. However, such rights are not absolute and must be exercised in a manner which does not result in public inconvenience, public nuisance, obstruction or endanger public safety.

7. In the present case, given the proximity of a functioning educational institution i.e. A.V. High School, Krishnanagar, Nadia and the specific allegation of congestion and public inconvenience, this Court finds merit in the stand taken by the respondent-Krishnanagar Municipality in so far as it pertains to the need to regulate vending activities in the interest of public order. This Court also notes that the documents placed by the petitioners are related to the year 2011 and no subsequent documents have been placed on record by the petitioners to ascertain their rights to carry out the vending activities from the said site.

8. At the same time, this Court is of the considered view that the representations of the petitioners dated 12.02.2025 and 17.02.2025 respectively need to be considered by the respondent-Municipality in accordance with the Street Vendors

(Protection of Livelihood and Regulation of Street Vending) Act, 2014.

9. In view thereof, learned Advocate for respondent-Krishnanagar Municipality contends that the municipal authorities are ready and willing to consider the representations of the petitioners dated 12.02.2025 and 17.02.2025.

10. Learned Advocate for the petitioners submits that his clients shall be satisfied if their representations are considered and disposed of in a time bound manner.

11. Accordingly, this Court directs the respondent nos.4 and 5 to consider and decide the representations of the petitioners dated 12.02.2025 and 17.02.2025 respectively in accordance with the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, if applicable, or any other Act or Rules, by passing a reasoned order within a period of eight weeks from the date of communication of this order after affording an opportunity of personal hearing to the petitioners or their authorized representatives.

12. It is clarified that this Court has not expressed any opinion on the merit of the entitlement of the petitioners or otherwise, and the same shall be decided independently by the respondent-Municipality. It is also clarified that the respondent-Krishnanagar Municipality shall be at liberty to take necessary steps for removal of any encroachment from public roads or drains and to ensure free movement of public, particularly in sensitive areas like school zone. The respondent-Municipality may also seek reasonable restrictions in the timing and manner of vending activities in the said locality keeping in view the school hours and overall public interest.

13. Needless to mention, if the petitioners are aggrieved by the decision taken by the respondent-Krishnanagar Municipality, they shall be at liberty to challenge the same in accordance with law.

14. With the aforesaid observations and directions, the present writ petition is disposed of.

15. Interim orders, if any, shall stand vacated.

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

17. There shall be no order as to costs.

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

(Gaurang Kanth, J.)