

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 10.03.2025

DELIVERED ON: 10.03.2025

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**M.A.T. 297 of 2025
With
I.A. No. CAN 1 of 2025**

**Md. Hasmat Ali & Ors.
Vs.
The Government of West Bengal & Ors.**

Appearance:-

**Mr. Arindam Banerjee
Mr. Subhojit Sahafor the appellants**

**Mr. Santanu Kr. Mitra, Sr. Govt. Advocate
Mr. Manas Kr. Sadhu.....for the State**

**Mr. Sumit Royfor the West Bengal State Electricity
Distribution Company Limited**

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. The certified copy filed by the learned advocate for the appellants shall be kept on record.
2. This intra-Court appeal filed by the writ petitioners is directed against the order dated February 25, 2025 in W.P.A. 15988 of 2016. The said writ petition was filed by the appellants praying for issuance of a writ of

Mandamus to direct the authorities to restore the electricity supply to the sheds allotted to the appellants in the Cattle Resettlement Project at Ganganagar, North 24-Parganas. The appellants/writ petitioners also challenged the notices issued by the competent authority dated August 27, 2014 by which the writ petitioners were directed to vacate the area by removing the large animal/cattle within one month from the date of issue of the said letter, failing which, they were informed that legal action will be taken.

3. It is true that the writ petitioners did not file the writ petition immediately after the notices dated August 27, 2014 were issued but was filed in the year 2016 after the electricity connection was disconnected. However, as on date, it appears that the electricity connection has been restored.
4. The appellants had a benefit of an interim order passed in the writ petition dated October 4, 2016 directing *status quo* to be maintained by the State until further orders to enable the Court to assess the case of the writ petitioners. With regard to the restoration of electricity, as the writ petitioners were granted liberty to fulfil their need for electricity by using the generators in the intervening period, however, the respondents/licensee was directed not to remove the transformer from the site until further orders or without taking leave of the Court.
5. As mentioned above, the electricity supply has been restored and the benefit of the interim order of *status quo* was in vogue in favour of the writ petitioners till the dismissal of the writ petition by the by the impugned order dated February 25, 2025.
6. The learned Single Bench was of the view that the writ petition is not maintainable since the dispute is purely a private dispute and certain facts

are involved in the matter. The correctness of the finding recorded by the learned Single Bench is called in question in the present appeal.

7. We have elaborately heard the learned advocates for the parties and carefully perused the materials placed on record.
8. The first issue to be considered is as to whether the writ petition is maintainable. Admittedly, the petitioners were rearing cattle and carrying on milk business within Kolkata city for several generations. After the advent of the West Bengal Cattle Licensing Act, 1959 (for brevity '1959 Act'), the appellants and similarly placed persons were required to obtain licence under the 1959 Act, which Act was enacted in the interest of public health and sanitation to regulate the keeping of cattle in urban areas and for that purpose to provide for the licensing of cattle.
9. It is also not in dispute that the writ petitioners applied for licence under the 1959 Act and the licence was granted and a bond was also executed. Copies of the licence and the bond have been annexed in the stay petition, from which it is seen that the licences were being renewed on a yearly basis. The resettlement of the appellants/writ petitioners was pursuant to a decision taken by the Government keeping in mind the public health and sanitation and to regulate keeping of cattle in urban areas. Precisely, for such reason, the Cattle Resettlement Project in Ganganagar, North 24-Parganas was conceived and the appellants and the other similarly placed persons were required to shift their cattle to the said resettlement area.
10. Therefore, undoubtedly, there is a public element involved and it is not purely a civil dispute but it is a matter concerning the rights of the appellants/writ petitioners to be granted a licence under the 1959 Act. At least, upto 2014, the licence fee has been received from the appellants for

which receipts have been issued by the Cashier-in-Charge, W.F.P.-618, A.R.D. Department. It appears that thereafter, the appellants did not remit the licence fee nor a formal order of renewal of licence or fresh licence was granted nor a fresh bond was executed.

11. According to the learned advocate appearing for the respondents, the total outstanding payable by all the 11 appellants/writ petitioners as on March 05, 2025 is Rs. 1,08,52,268/-. This amount has been shown to be due and payable as per the Accounts Officer, Project Office For WFP-618, A.R.D. Department, Government of West Bengal and the details have been furnished in a tabular format.
12. The format has several columns of which one of the columns is the “Amount due as on 28.02.2025” and the last column is the “Amount received as on 28.02.2025”. Admittedly, as on February 28, 2025, a sum of Rs. 27,93,206/- has been received from all the appellants/writ petitioners.
13. Thus, one can infer that though a formal renewal of licence was not granted in favour of the appellants but the licence fee has been received, which can be construed to be deemed renewal of the licence. However, we cannot infer such deemed renewal in the instant case as the payments were made by the appellants pursuant to the interim direction issued by the learned writ Court and such payment has been received by the authorities without prejudice to their rights. Nonetheless, the licence fee has been received upto February 28, 2025.
14. According to the respondents, there is still an amount of Rs. 1,08,52,268/- outstanding as on March 5, 2025. Learned advocate for the respondents refers to 3rd paragraph of the notice dated August 27, 2014, which was impugned in the writ petition stating that the appellants cannot have cattle

within the Madhyamgram Municipal area. However, the notice itself states that no person is allowed to keep cattle within the area of Kolkata Municipal Corporation and its surrounding urban agglomeration including the said Madhyamgram Municipal Area except under its valid licence. Therefore, if proper meaning is given to the notice dated August 27, 2014, it would mean that a person intending to keep cattle has to possess a valid licence. Of course, the appellants also have to be faulted for not applying for licence promptly prior to the expiry of the licence in the year 2014.

15. However, considering the fact that the appellants were re-settled in this particular area presently, where they are carrying on their business and if according to the authorities, they cannot carry out the activities in the re-settled areas, then they should be informed accordingly and this is more so because the appellants were allowed to have their cattle in the area in question pursuant to a Cattle Resettlement Project framed by the Government. Therefore, we are of the view that the matter does not involve any civil dispute and it is concerning the effect and operation of the 1959 Act and matters connected therewith and therefore, we hold that the writ petition is maintainable.
16. In the light of the above conclusion, we are inclined to issue appropriate directions to enable the appellants to apply for a licence before the appropriate authority, which should be considered in accordance with law by passing a reasoned order.
17. This liberty can be granted subject to the condition that the appellants clear the entire arrears of Rs. 1,08,52,268/-, which is said to be due and payable as on March 5, 2025 and continue to pay the licence fee at fixed

rates till the application for grant of licence is decided by the concerned authority.

18. Accordingly, the appeal is allowed. The order passed in the writ petition is set aside with a direction to the appellants to apply for licence before the licensing authority under the 1959 Act within two weeks from date and if such application is filed, the licensing authority shall consider the application in the light of the 1959 Act and the connected notification and pass a reasoned order on merits and in accordance with law.
19. The authority is directed to comply with this direction within a period of six weeks from the date on which the application is filed along with payment of arrears, which is stated to be due and payable upto March 5, 2025 and for the subsequent period as well.
20. Insofar as the electricity supply is concerned, since it has been restored as of now, the same *status quo* shall continue subject to the condition that the appellants continue to pay the electricity consumption charges together with any deposit, if called upon to be paid.
21. No costs.
22. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)