

10.03.2025
Item No.11
Ct. No.01
RP/SM

MAT 304 of 2025
With
IA No.CAN 1 of 2025

Ram Koley
Vs.
State of West Bengal & Ors.

Mr. Sagar Bandyopadhyah, Sr. Adv.
Mr. Soumyen Datta, Adv.
Ms. Dolon Dasgupta, Adv.
....For Petitioner

Mr. Somnath Ganguly, A.G.P.
Mr. Raja Ram Banerjee, Adv.
...For the State-Respondent

Mr. Deepan Kr. Sarkar, Adv.
Mr. Sagnik Majumdar, Adv.
Mr. Abhidipto Tarafder, Adv.
Ms. Shreya Ghosh Dastidar, Adv.
...For Respondent No.12

Mr. Arka Kr. Nag, Adv.
Mr. Tirthankar Dey, Adv.
...For Respondent No.3

Mr. Arjun Ray Mukherjee, Adv.
Mr. D. Mitra, Adv.
...For Respondent No.4

1. This intra-court appeal filed the private respondent No.10 in WPA 30997 of 2024 is directed against the order dated 25th February, 2025. The writ petition was filed by the writ petitioner praying for a direction upon the authorities not to grant any sanction and/or permission and/or licence and/or no objection certificate to the appellant/private respondent No.10 in respect of the sweet shop operating in the premises in question which is owned

by the writ petitioner. The writ petitioner also sought for a direction upon the authorities to forthwith stop operation of the sweet shop and manufacturing unit run by the appellant/respondent to avoid any fire hazard, accident and causing injuries to the residents and public at large. The learned Single Bench after hearing the parties on either side passed an interim direction on 5th February, 2025. After hearing the parties the learned Single Bench noted that a notice under section 35 of the West Bengal Fire Services Act, 1950, was issued upon inspection being conducted and upon hearing the parties. The inspection report of the West Bengal Pollution Control Board was directed to be placed before the learned Single Bench on the next hearing date. The case was adjourned till February 12, 2025. In the meantime, the West Bengal Pollution Control Board and the Police were directed to ensure that the sweet manufacturing unit in question is to be run in accordance with the provision of law. Police authorities were directed that the writ petitioner should not be harassed or threatened by the appellant/private respondent in any manner whatsoever. As several police complaints were made by the writ petitioner against the appellant/private respondent to the effect that the appellant/private respondent is a very influential person and often

threats were meted out upon the petitioner, who is a senior citizen, the learned Writ Court made it clear that the pendency of the writ petition will not preclude the Fire and Emergency Services department from taking any steps under section 36 of the 1950 Act and further directed the West Bengal Pollution Control Board to file the inspection report on 25.02.2025. On perusal of the report filed by the Special Secretary, Government of West Bengal, the Divisional Fire Officer, 24 Parganas (North), it was observed that the licence issued by the Bidhannagar Municipal Corporation in favour of the private respondent for running the shop has been cancelled with effect from February 20, 2025 and such order was not under challenge, so refused to enter into the merit of the submission on behalf of the writ petitioner. The appellant is aggrieved by the observation made by the learned Single Bench by which the appellant has been precluded from running the sweet manufacturing unit.

2. We have elaborately heard the learned advocates for the parties and carefully considered the materials placed on record. The shift-anchor of the argument of the appellant is based on the licence obtained from the Bidhannagar Municipality, the department of Fire and Emergency Services and Food Safety department. To be noted all these licenses are fresh

licenses which have been issued pursuant to online applications made by the appellant. The licence issued by the Bidhannagar Corporation has contained a disclaimer stating that the licence is auto-generated through computer system as per data submitted by the appellant himself in online procedure. Respective Department/ Authority/ Institution/ Office may verify the documents/credentials from the certificate holder, if so deem fit. Therefore, nothing stems out from the certificates issued through online application based on self-declaration. Much after the Fire department issued the online licence, which was valid for the period from 9th October, 2024 to 8th October, 2025, there appears to have been conduct of an inspection and the West Bengal Fire and Emergency Services has passed an order on 18th December, 2024 by serving a notice under the West Bengal Fire Services Act, 1950 directing the appellant to stop the function in the appellant's establishment, failing which legal action will be taken against the appellant in accordance with the various provisions of the Act.

3. Admittedly, none of the orders passed by the authorities by which the appellant was prohibited from carrying on the manufacturing activities, has been challenged by the appellant before any forum as provided by the relevant statutes and the contention

of the appellant to argue the correctness of the action taken by various authorities in this appeal which is filed against the orders passed in the writ petition filed by the writ petitioner, is feasible of acceptance. Furthermore, it is to be noted that the appellant had been afforded opportunity by the authority to make his submission and it is the contention of the learned senior advocate for the appellant that no order has been passed by the said authority. Be that as it may, as on date the licences are revoked and has been cancelled and it is up to the appellant to work out his remedy under the provisions of the relevant statutes.

4. Reliance was placed on the decision of the Division Bench of this Court in the case of ***Abdul Rashid vs. Calcutta Municipal Corporation and Others*** reported in ***AIR 1991 Cal 234***. Before we examine the applicability of the said decision we point out that the appellant was never before any forum or court questioning of correctness of the action taken by the authorities nor any prayer has been made before any authority or forum for grant of any order. The facts in the case of ***Abdul Rashid (supra)*** was concerning a businessman who wanted his business to be taken into consideration and certificate of enlistment be issued under the Calcutta Municipal Corporation Act, 1980. In paragraph 9 the Hon'ble Division Bench has noted that the petitioner herein

has already filed a civil suit in a competent court for declaration of his tenancy in question and other reliefs and the civil court has passed interim order directing maintenance of status quo. This factor has weighed in the minds of the Hon'ble Division Bench and accordingly it proceeded to hold that the petitioner therein was entitled for certificate of enlistment. In our considered view the decision is wholly inapplicable to facts and circumstances of the case.

5. In the above paragraph we have noted about the interim direction issued on 5th February, 2025. Subsequently, by the impugned order the writ petition was disposed of in which the report filed by the Special Secretary, Government of West Bengal has been taken into consideration and the Hon'ble Court also noted that the Bidhannagar Municipal Corporation has cancelled the licence of the appellant with effect from 20th February, 2025. Thus, we find there are no good grounds made out by the appellant to interfere with the impugned order.
6. Accordingly, the appeal along with the connected application are dismissed.

[T.S. SIVAGNANAM]
CHIEF JUSTICE

[CHAITALI CHATTERJEE (DAS), J.]

