

29.01.2025
Ct. No. 30
S.L No. 36
SM

WPA 4309 of 2020

**Smt. Kajal Das
Vs
State of West Bengal & Ors.**

Mr. Kalidas Saha
.....for the petitioner
Mr. Sonal Sinha
Mr. Avishek Prasad
.....for the E.B. Municipality
Mr. Ranjit Rajat
.....for the State respondents

The present writ application of the year 2020 has been preferred praying for direction upon the respondent authorities to hand over vacant peaceful possession of shop room no. 13 in the Municipality market complex under English Bazar Municipality, Malda.

On hearing the learned counsels for all the parties and considering the order dated 26.05.2018 passed on behalf of the Board of Councilors and chairman of English Bazar Municipality, Malda and the report submitted by the police authorities, this Court finds that the present case has a checkered history which is as follows.

(i) In WP 1348 (W) of 2018 vide an order dated 20.06.2018 the High Court had directed the Municipality authorities to consider the claim of the petitioner, who was to place documents (even secondary evidence) before the Board of Councilors and the said Board was to

consider the claim of the petitioner in accordance with law.

(ii) It appears from the order sheet of the Board of Councilors that the petitioner failed to produce the documents as required by the Board and as such the Board on not being provided with the relevant documents were unable to consider the prayer of the petitioner and the matter was disposed for want of documents.

(iii) **It appears from the materials on record that vide an order of the Municipality dated 04.11.2015 the petitioner was duly allotted shop room no. 13 in the said market.** The said order at page 23 of the writ petition is a document of the Municipality.

(iv) The said allotment was also made by the Municipality on being satisfied regarding the eligibility for being allotted the said shop room.

(v) At page 25 of the writ application is a deed of agreement by which the tenure of the allotment was till the year 2020.

(vi) It is submitted by the learned counsel for the Municipality that the tenure is now over and as such the petitioner's prayer cannot be considered.

(vii) It appears that the petitioner is running from pillar to post since 2015 in spite of being allotted shop room no. 13 in the market complex. All the documents required was in the custody of the Municipality. In spite

of the same being with them the Municipality directed production of the documents.

Considering the said facts and circumstances this Court finds that the order dated 26.05.2018 is against the principles of natural justice and thus set aside.

The Municipality is directed to extend the period of agreement for a period of 5 years from 2025 and hand over shop room no. 13 to the writ petitioner within 30 days from date of this order by delivering vacant khas possession of the same.

The Municipality is further directed to execute a fresh memorandum of agreement on the said terms and conditions.

The order is being passed as the writ petitioner has suffered severe prejudice being deprived of a right of possession in respect of the said shop room even though the Municipality themselves had allotted the said room being no. 13.

The writ petition stands disposed of.

Pending applications, if any, stands disposed of.

Interim order, if any, stands vacated.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

[Shampa Dutt (Paul). J]