

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

**HEARD ON: 09.07.2025
DELIVERED ON: 09.07.2025**

**PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH**

**WPA 7128 of 2025
CAN 1 of 2025**

RAM KOLEY

VERSUS

THE STATE OF WEST BENGAL & ORS.

With

**WPA 6458 of 2025
CAN 1 of 2025**

RAM KOLEY

VERSUS

THE STATE OF WEST BENGAL & ORS.

Appearance:-

**Mr. Saumyen Datta, Adv.
Mr. Tapas Singha Roy, Adv.
Ms. Dolon Dasgupta, Adv.**

.....For the Petitioner

Ms. Paromita Malakar, Adv.

**... For the State
[in WPA 7128 of 2025]**

Ms. Mousumi Halder Chowdhury, Adv.

**... For the State
[in WPA 6458 of 2025]**

**Mr. Sirsanya Bandopadhyay, Adv.
Mr. Tirthankar Dey, Adv.
Mr. Arka Kumar Nag, Adv.**

... For the BMC

**Mr. Deepan Kumar Sarkar, Adv.
Mr. Sagnik Majumdar, Adv.
Mr. Abhidipto Tarafder, Adv.
Ms. Shreya Ghosh Dastidar, Adv.**

**... For respondent no. 5
[in WPA 7128 of 2025]**

JUDGMENT**Gaurang Kanth, J.:-**

1. The petitioner has filed writ petition being WPA 6458 of 2025 seeking a direction upon respondent nos. 2, 3 and 4 not to obstruct him from carrying on his business from the shop situated at 24-AB, Deshbandhunagar, High School Road, Baguiati, Kolkata. In WPA 7128 of 2025, the petitioner has challenged the order dated 20.02.2025, whereby the respondent authorities have cancelled his trade licence, previously granted to him for operating the sweet shop in the name “*Maa Tara Mistanna Bhandar*”.

2. Both the writ petitions arise from the same set of facts. With the consent of the parties, both the writ petitions are taken up for joint consideration and disposal.

3. The case of the petitioner is that he is a tenant in occupation in respect of the aforementioned premises and has been running a sweet shop and manufacturing unit therein under the name and style of “*Maa Tara Mistanna Bhandar*”. It is stated that the said business is in existence at the premises since 1978 under the tenancy of one Ms. Lila Chakraborty. The father of the petitioner used to carry on the said business until he passed away in 2014. Subsequently, the said property was transferred to Smt. Gargi Goswami, respondent no. 5 herein. In 1998, Smt. Goswami reconstructed the said building and reinducted the petitioner’s father into possession of the said shop in the ground floor of the building. After the demise of his father, the petitioner continued to run the said business from the said premises. The petitioner submits that Smt. Gargi Goswami had been receiving the rent till August, 2024, after which she stopped accepting the rent. Thereafter, the petitioner began depositing the rent before the

rent controller. It is further submitted that the landlady-tenant disputes are currently pending before the civil court.

4. The Petitioner asserts that he holds all requisite statutory licenses for operating the said business, including a Trade License, Fire License, and FSSAI License etc.

5. The Petitioner's landlady, Smt. Gargi Goswami, had earlier filed Writ Petition WPA 30997 of 2023 seeking a direction not to grant any further permissions to the Petitioner on the ground of potential fire hazards. During the hearing of that writ petition on 25.02.2025, the Respondent Municipality informed the Court that the Petitioner's Trade License had been cancelled on 20.02.2025. Consequently, the said writ petition was disposed of with a direction upon the Officer-in-Charge, Baguiati Police Station, to ensure that the Petitioner does not run his business from the subject premises without holding a valid license from all competent authorities. The Petitioner's challenge to this order before the Hon'ble Division Bench in MAT 304 of 2025 was unsuccessful.

6. The Petitioner subsequently applied online for a Trade License and was issued a fresh license dated 20.02.2025 through an automated process. As his other licenses remained valid, he attempted to reopen his shop. However, on 11.04.2025, when he attempted to do so, he was allegedly prevented by the police authorities from operating the business. The Petitioner has challenged this action of Respondent Nos. 2, 3, and 4 in WPA 6458 of 2025. In WPA 7128 of 2025, he assails the cancellation of his earlier Trade License dated 20.02.2025.

7. Learned Counsel for the petitioner submits that the trade licence has been cancelled in contravention of the notification dated 13.09.2021. He further states that the trade licence was issued under the West Bengal Municipal Corporation Act, 2006 on 14.09.2024 which was subsequently cancelled under

the West Bengal Municipal Act, 1993 which is in contravention of the statute and that the said provisions were not applicable at the time of cancellation of the trade licence.

8. Learned Counsel appearing for the respondent State submits that the impugned order has been passed after affording the petitioner adequate opportunity of hearing. It is submitted that the petitioner was specifically directed to produce documents in support of his claim, in terms of the Notification dated 13.09.2021. However, the petitioner allegedly failed to submit any document pertaining to the rent agreement, which ultimately led to the issuance of the impugned cancellation order.

9. Learned Counsel for the respondent Corporation further contends that in the absence of any document evidencing occupancy or tenancy, the respondent authorities were constrained to cancel the trade licence, having acted strictly in accordance with the aforesaid Notification.

9. Learned Counsel appearing for private respondent no. 5 submits that the petitioner is a rank trespasser and has never been in lawful occupation of the subject premises. It is further contended that the petitioner fraudulently procured the trade licence by uploading misleading information through the online portal of the respondent-Corporation. He asserts that during the proceedings before the licensing authority, the petitioner was unable to produce any documentary evidence to substantiate his claim of lawful occupation or entitlement to carry on business from the said premises. It is also submitted that even assuming, arguendo, that the cancellation of the trade licence by the respondent authorities is found to be procedurally irregular or unlawful, the petitioner, at best, could claim a right in his capacity as the son of the erstwhile sole proprietor of the business. However, it is argued that such a claim does not, by itself, confer any

independent legal right or title to the premises or entitle the petitioner to the continuation of the trade licence. It is contended that the petitioner's father, who was the original licensee and sole proprietor of the sweet shop, may have had a limited right of occupation during his lifetime, but such right could not have devolved upon the petitioner in the absence of a valid legal instrument or recognized tenancy, and hence, the claim of the petitioner is without any legal basis.

10. This Court has heard the submissions advanced by the learned Counsel for the parties and has perused the materials on record.

11. That upon a bare and plain reading of the impugned cancellation order dated 20.02.2025, it is manifest that the sole ground for cancellation of the trade licence by the respondent authorities was the alleged failure on the part of the petitioner to submit a copy of the rent agreement pertaining to the premises where the business is being carried on. However, such a ground, in isolation, is wholly unsustainable in law and contrary to the express provisions of the Notification dated 13.09.2021 issued by the competent authority governing the grant and cancellation of trade licences. Clause 2 of the said Notification clearly stipulates the documents required for processing an application for issuance or renewal of trade licences. The relevant portion of Clause 2 reads as under:

“2. Submission of only 2 (two) documents viz. identity proof of the applicant (EPIC/Aadhaar/DL/Passport, etc) and proof of occupancy/ownership of the business address (Property Tax bill/receipt/ Deed of Conveyance/ Lease Deed/ Sub-lease Deed/ Leave and License Agreement/ Rent Agreement/ Rent receipt/ NOC if rent is free/ Electricity bill/ Telephone bill in respect of place of business and in name of the applicant) will be required.”

12. From a careful reading of the above provision, it is abundantly clear that the rent agreement is merely one among several alternative documents that may be furnished as proof of occupancy or ownership of the business premises. The said clause provides an exhaustive list of acceptable documents such as a Property Tax receipt, Deed of Conveyance, Lease Deed, Sub-lease Deed, Leave and License Agreement, Rent Receipt, No Objection Certificate (in case of rent-free occupation), Electricity Bill, Telephone Bill, etc. The use of the word “or” and the overall scheme of Clause 2 make it evident that the applicant has the liberty to submit *any* one of the aforementioned documents to establish occupancy/ownership. Therefore, the cancellation of the petitioner’s trade licence solely on the ground that a rent agreement was not submitted, without affording due consideration to whether the petitioner had submitted any other valid document from the list, is arbitrary, unreasonable, and in gross violation of the principles of natural justice. Such action not only violates the petitioner’s right to carry on trade under Article 19(1)(g) of the Constitution of India but also reflects non-application of mind by the respondent authorities to the statutory framework governing the matter.

13. Further, Clause 12 of the same Notification stipulates as follows:

“12. ULBs are authorized to cancel the Certificate of Enlistment immediately in case of detection of any fraud, mala fide data entry, uploading of fake documents, etc., by the applicant and if such detection is made.”

14. A bare reading of this Clause makes it clear that cancellation of the trade licence is permissible only upon detection of fraud, mala fide intent, or submission of forged or false documents. None of these grounds have been alleged or established in the present case.

15. Hence, it is apparent that the respondent authorities failed to pass a reasoned and speaking order in accordance with the provisions of their own Notification dated 13.09.2021.

16. In view of the above, the cancellation order dated 20.02.2025 is hereby quashed and set aside. The respondents are directed to conduct a fresh hearing and pass a reasoned and speaking order strictly in accordance with law, after affording an opportunity of hearing to the petitioner as well as the private respondents within a period of four weeks from the date of communication of this order by way of a speaking order. The said order shall be communicated to the petitioner within one week thereafter.

17. Since the petitioner's trade licence had already been revoked by the competent authority, this Court does not find any illegality in the respondent's actions of preventing the petitioner from operating the said shop. Until such time as the petitioner obtains a valid trade licence and all other necessary licences from the appropriate authorities, he shall not be permitted to conduct business from the said premises.

18. In view of the above observations and findings, WPA 6458 of 2025 is dismissed and WPA 7128 of 2025 is allowed to the extent indicated in the above order.

19. Pending applications, if any, are also disposed of.

20. There shall be no order as to costs.

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

(Gaurang Kanth, J.)