

ML-38

06.01.2025
Court No.26
(AD)

(Disposed
of)

MAT 2320 of 2024
With
IA No.: CAN 1 of 2024
With
IA No.: CAN 2 of 2024

Kolkata Municipal Corporation
Vs.
Prem Chand Jaiswal & Ors.

Mr. Deepan Kumar Sarkar, Advocate
Mr. Sourav Bhagat, Advocate
Mr. Jishnujit Roy, Advocate
Ms. Samriddha Sen, Advocate
... for the appellant.

Mr. Gopal Chandra Ghosh, Advocate
Ms. Ishita Chowdhury, Advocate
Ms. Sunandana Saha, Advocate
... for the respondents.

1. Department reports a delay of 56 days.
2. For the ends of justice, the causes shown in the application for condonation of delay are accepted as sufficient.
3. **IA No.: CAN 1 of 2024** is allowed.
4. IA No.: CAN 2 of 2024 is an application seeking appropriate orders.
5. Appeal is directed against an interim order passed in a writ petition.
6. By the impugned order dated September 25, 2024 passed in WPA 16658 of 2024, the learned Single Judge directed renewal of certificate of enlistment without insisting on payment of solid waste management charges as a condition precedent.
7. Kolkata Municipal Corporation is the appellant

before us.

8. Learned Advocate appearing for the appellant submits that, in similar situation, other learned Single Judges directed payment of the solid waste management fees with the Corporation as a condition precedent for issuance of the certificate of enlistment. He submits that, subsequent to the impugned order, other writ petitioners are citing the impugned order as a precedent and are obtaining orders from the Corporation for renewal of certificate of enlistment without payment of solid waste management fees.
9. Learned Advocate appearing for the writ petitioner submits that, without prejudice to the rights and contentions of his client in the pending writ petition, his client may be permitted to deposit the amount of Rs.9,648/- as claimed by the Corporation to be solid waste management fees with the Corporation. He submits that, such amount so paid be subject to the result of the writ petition.
10. Contention of the writ petitioner being reasonable is accepted.
11. Writ petitioner is permitted to deposit a sum of Rs.9,648/- as solid waste management fees with the Kolkata Municipal Corporation within a fortnight from date.
12. In the event such payment is made, the same will

abide by the result of the writ petition. In default of payment, Corporation need not renew the certificate of enlistment of the writ petitioner and if issued, will recall the same.

13. Court is informed that the Corporation is yet to renew the certificate of enlistment. No doubt, Corporation will renew the certificate of enlistment existing in favour of the writ petitioner immediately on deposit of the sum of Rs.9,648/- with the Kolkata Municipal Corporation together with other charges as directed by the impugned order.
14. The issue as to whether, the Kolkata Municipal Corporation is entitled to levy solid waste management fees is yet to be finally decided by the learned Single Judge. Corporation places reliance on Section 333 of the Kolkata Municipal Corporation Act, 1980 apart from other provisions as the source of power to do so. Stand of the Corporation is disputed on behalf of the writ petitioner.
15. Since the issue is yet to be decided and since there is a question of revenue involved, it would be appropriate in the facts and circumstances of the present case to balance the equities. Requiring the assessee to deposit the amount with the Corporation authorities pending adjudication of the issue finally, will enure to the benefits of

both the writ petitioner as well as the Kolkata Municipal Corporation. In the event, the writ petitioner succeeds he will receive refund of the same.

16. In such circumstances, **MAT 2320 of 2024** and **IA No.: CAN 2 of 2024** are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)