08.10.2026
Item No.5 (MD)
Court No.03
AJ.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JRUISDICTION

WPA 26773 of 2026

Sri Chinmoy Boral
-Vs-
The Bidhannagar Municipal Corporation & Ors.

Ms. Debjani Sengupta,
Mr. Rajib Mullick,
Ms. Priyanka Barik.
...for the petitioner.

Mr. Anish Kumar Mukherjee.
...for the B.M.C.

1. Challenging the order dated 14th August, 2026 passed by the Bidhannagar Municipal Corporation whereby the certificate of enlistment issued in favour of the petitioner for running the business under the name and style of Tanic Food was cancelled with effect from 14th August, 2026 on account of deviating from the approved building plan i.e. car parking to shop and on account of non-availability of No Objection Certificate from West Bengal Pollution Control Board and Indemnity Bond for Fire.

2. The petitioner's case proceeds on the premise that the petitioner is running a small eatery and is selling fast food from a shop room on the ground floor of a G+III storied building complex namely Lalbari Apartment at premises No. AB 8/41 Deshbandhu Nagar being holding No. PGM 22/1607 under Ward No. 22 of the Bidhannagar Municipal Corporation.

3. According to Ms. Sengupta, learned Advocate representing the petitioner a certificate of occupancy has been issued by the erstwhile Rajarhat Gopalpur Municipality in respect of the said building which has been enclosed to the petition. She has also drawn attention of the Court to the mutation certificate issued by the Rajarhat Gopalpur Municipality to demonstrate that the aforesaid shop has been mutated in the name of the petitioner. The petitioner claims to have also obtained an electricity connection and is paying electricity bills at commercial rate. The petitioner is also holding a valid registration certificate under Food Safety and Standards Act, 2006. She would submit that the petitioner has also been issued a certificate of enlistment by the erstwhile Rajarhat Gopalpur Municipality way back in the year 2007 and the same has been renewed from time to time both by the erstwhile Rajarhat Gopalpur Municipality and subsequently by the Bidhannagar Municipal Corporation. Such certificate of enlistment remained valid till the same was abruptly cancelled vide order dated 14th August, 2026.

4. Ms. Sengupta by drawing attention of this Court to the records of proceedings before the West Bengal Pollution Control Board would submit that on a complaint being lodged in the year 2019 against the petitioners' eatery and

four other shops in the said building, the West Bengal Pollution Control Board has already given a finding that the nature of business carried on by the petitioner do not come under the purview of the State Board. Independent of the above, it is submitted that the petitioner is a small eatery and has no sitting capacity and as such the category of the petitioner is *white* as per the categorization/classification made by the Central/State Pollution Control Board as per the office order dated 25th August, 2026.

5. In the factual backdrop as aforesaid according to her the decision rendered by the Municipality to cancel the petitioner's certificate of enlistment is without authority of law. The Municipality could not have cancelled the certificate of enlistment on the grounds noted in the order.

6. In support of her contention that the certificate of enlistment can be issued provided, grounds for issuance are available and the Municipality cannot transgress beyond its authority to cancel the same, reliance has been placed on a judgment delivered by a co-ordinate Bench of this Court in the case of *Soumendra Kristo Dutt & Anr. –Vs- Kolkata Municipal Corporation & Ors.* reported in *AIR 2021 Cal 141*.

7. Mr. Mukherjee, learned Advocate appears for the Bidhannagar Municipality.

According to him, the business was being carried on from a garage space without obtaining necessary permission and as such, the authority after giving opportunity of hearing has issued the impugned order. There is no irregularity in the order. This is also not a case of violation of principles of natural justice. In response to a query from the Court he would however, be candid enough in submitting that no proceeding under Section 272 of the West Bengal Municipal Corporation Act, 2006 (hereinafter referred to as the "said Act") had been initiated.

8. Having heard the learned Advocates appearing for the respective parties and having considered the material-on-record, I find that the petitioner *prima facie* is in lawful possession of the shop room as aforesaid. It is also not in dispute that the erstwhile Rajarhat Gopalpur Municipality had initially issued the certificate of enlistment in favour of the petitioner way back in the year 2007. Since then the same has been renewed from time to time.

9. Having regard to the provisions contained in Section 141 of the said Act, I find that ordinarily a certificate of enlistment is issued to every person engaged or intending to be engaged in any profession trading or calling as specified in schedule II and as may be detailed in the guideline issued by the State

Government for the purpose, in any area within the jurisdiction of the Corporation either by himself or by an agent or representative.

10. Sub Section (2) of Section 141 of the said Act categorically provides that in case an application under this sub-section even where a statutory clearance remains pending, provisional enlistment shall be issued.

11. In the instant case, though the Municipality would contend that the petitioner had not obtained no objection from the West Bengal Pollution Control Board, the proceedings initiated before the West Bengal Pollution Control Board as available in the record of proceedings demonstrate that the nature of business carried by the petitioner do not come within its purview.

12. Be that as it may, no proceedings have been initiated by the West Bengal Pollution Control Board against the petitioner.

13. This apart, although the Municipality would complain that the petitioner has converted a garage to a shop room, I find that the provisions of said Act categorically provide the circumstances under which a prohibitory order can be issued in case of change of user of the building. It may be noted that though the Commissioner is authorized to pass an order of stoppage of work forthwith, however, such order

is subject to the proviso to sub-section (4) of Section 272 which *inter alia* provides that before passing such an order, the Commissioner shall give a reasonable opportunity to the person affected to show cause why such order shall not be made.

14. In the instant case, I find that the learned Advocate for the respondent has been candid enough in acknowledging that no proceeding under Section 272 of the said Act has been initiated. Further as noted in the case of *Soumendra Kristo Dutt & Anr.* (supra) the scope of enquiry for grant of certificate of enlistment is very limited.

15. In the light of the above, the order passed by the Municipality in cancelling the petitioner's certificate of enlistment on the grounds noted in the order dated 14th August, 2026 appears to be an act in colorable exercise of power. The same cannot be sustained and is accordingly set aside.

16. Since, no other issue remains to be decided, the writ petition stands disposed of.

17. There shall be no order as to costs.

18. Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Raja Basu Chowdhury J.)