

Wasim Khan vs The State Of West Bengal & Ors on 30 August, 2022

Author: Shampa Sarkar

Bench: Shampa Sarkar

30.08.2022
Sl. No.563(ML)
srm

W.P.A. No. 2180 of 2022

Wasim Khan

Versus

The State of West Bengal & Ors.

Mr. Debnath Ganguly,
Mr. Aranya Saha,
Mr. Suprio Dutta,
Ms. Aishwarya Pratihari Ganguly

...for the Petitioners.

Ms. Chama Mookherji,
Mr. Gourav Das

...for the State-respondents.

Mr. Jagannath Ganguly ...for the Respondent No.7.

The petitioner alleges that the police authorities had sealed the bottling unit in the course of investigation, but had refused to open the lock, thereby depriving the petitioner from continuing with his business. It is submitted that subsequently proper licences and permissions have been obtained and the police authorities were no longer authorised to continue to keep the premises under lock and key.

The police report indicates that Dasnagar Police Station Case No.107 of 2021 dated July 28, 2021 under Sections 272/273/420 of the Indian Penal Code, was started against the petitioner. There had been allegations that the petitioner had bottled spurious water. The plant was operating without any valid licence and permission. The police report also indicates that the sample of the drinking water, which did not meet the mark under the Food Safety and Standards Act, 2006, was sent to the analyst. The analyst opined that the water was substandard and unsafe. The investigation was completed and a charge sheet vide Dasnagar PS Charge Sheet No.24 of 2022 dated February 28, 2022 under Sections 188/272/273/420 of the Indian Penal Code read with Sections 56/57/63 of the Food Safety & Standards Act, 2006 was submitted before the learned jurisdictional Magistrate.

The petitioner did not have any valid licence when the FIR was registered. Such licence was obtained on July 31, 2021, after the case was started. Under the new trade licence, the petitioner has been authorised to operate as an order- supplier.

The petitioner also did not have fssai licence. The petitioner failed to produce the fire licence and the permission from the Pollution Control Board. Accordingly, the police authorities found that the SWID, fssai, BIS certificates had not been issued in favour of the petitioner. Thus the factory was sealed.

Considering all such illegalities and finding the water to be substandard and spurious, the police authorities had sealed the premises, from which such the alleged business was being carried on.

The petitioner now submits that all the required licences and clearance have been obtained.

Prima facie, the court does not find any reason to keep the unit sealed as the investigation is over, unless the required clearances and permissions have still not been granted.

Learned Advocate for the Bureau of Indian Standards submits that the petitioner has been granted the requisite licence by the said authority, upon the authority finding the production to be up to the mark.

This court is not in a position to ascertain whether all the required permissions, licence, clearance etc. had been obtained by the petitioner. The other authorities under the relevant law, whose certificates and permissions are required, are not before the court.

Under such circumstances, as the learned jurisdictional court is already in seisin of the matter, the petitioner is at liberty to approach the learned Jurisdictional Court for appropriate reliefs by producing all relevant documents, on the strength of which the unit may be operated.

The jurisdictional court will decide the issue in accordance with law, upon perusing all the materials.

The writ petition is, thus, disposed of. There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)