

(2008) 02 CAL CK 0069

In the Calcutta High Court

Case No : Writ Petition No. 17570 (W) of 2007

Md. Manjur Hoque Mondal

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 04-02-2008

Acts Referred:

West Bengal Panchayat Act, 1973 — Section 116, 117

Citation : (2008) 1 ILR (Cal) 316

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Sajal Kanti Bhattacharya and Ashim Kumar Chakraborty, for the Appellant; Diptanil Chakraborty, for 3rd Respondent, for the Respondent

Final Decision : Dismissed

Judgement

Jayanta Kumar Biswas, J.—The Petitioner is alleging that his complaint received by the executive officer of Lalgola Panchayat Samity was not considered by that/ authority. In the complaint he alleged that to his prejudice certain people (named in the complaint) established a "Hat". The question is whether the Petitioner's complaint merited any consideration at all.

2. There is nothing to show that he obtained a licence u/s 117 of the West Bengal Panchayat Act, 1973 for establishing the Hat that he claims that he has been running from the place mentioned in the document at page 11. It is a licence granted to him by the Lalbagh Regulated Market Committee under provisions of the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972. Curiously it was granted permitting him to set up a Hat: "Agril. Produce Cattle Hat". It is not known how cattle could be described as agricultural produce. Be that as it may, the licence was not one granted by the Panchayat Samity, and hence it incurred no obligation to consider the complaint in question for any purpose whatsoever.

3. Counsel submits that the Panchayat Samity has been collecting licence fee

from the Petitioner for permitting him to run the Hat., From the document at page 14, I find that the Panchayat Samity granted licence u/s 116 of the West Bengal Panchayat Act, 1973, and that it collected fee only for that licence. u/s 116 any trade or business declared under its Sub-section (1) to be offensive or dangerous cannot be carried on by anyone without obtaining a licence from the Panchayat Samity. And such a licence was only obtained by the Petitioner for carrying on a trade or business dealing in cattle.

4. Hence it cannot be said that he was given any licence by the Panchayat Samity to establish of Hat in terms of the provisions in Section 117. This being the position, I fail to see how he can allege that other persons of the locality are not entitled to carry on the same business or to establish a Hat after obtaining a licence u/s 117. If the other persons are carrying on any business without obtaining trade licence or licence to establish Hat, it is for the Panchayat Samity to take appropriate action, but he cannot allege that other persons should not be permitted to carry on business.

5. For these reasons, I do not think this is a fit case for making an order directing the Panchayat Samity to examine the Petitioner's complaint. The writ petition is accordingly dismissed. By this I do not mean that if someone is carrying on any trade or business in violation of Section 116 or has established any Hat in contravention of Section 117, the Panchayat Samity shall not make necessary investigation and take appropriate action according to provisions of law. It is its duty to take action against the violators. There shall be no order for costs.

6. Urgent certified Xerox copy of this order shall be supplied to the parties, if applied for, within three days from the date of receipt of the file by the section concerned.