

Tripura High Court

Mr. P. Roy Barman vs Mr. A.Bhowmik on 8 June, 2022

HIGH COURT OF TRIPURA  
AGARTALA  
WP(C)No.482 of 2022

BEFORE

HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY

For Petitioner(s) : Mr. P. Roy Barman, Sr. Adv.  
Mr. S.Bhattacharjee, Adv.  
Mr. K.Nath, Adv.  
Ms. A.Debbarma, Adv.

For Respondent(s) : Mr. A.Bhowmik, Adv.  
Mr. D.Sharma, Addl. GA

ORDER

08.06.2022 [1] The writ petitioners are the stall owners of the municipal market named Mukut Bipani Bitan at Lichu Bagan, Agartala. Their case is that after the demolition of the old market, Agartala Municipal Corporation has constructed new stalls which have been allotted to the old stall owners and others. It is claimed by the writ petitioners that they have shared a huge amount of capital expenditure for construction of those stalls in the market on the assurance of Agartala Municipal Corporation (AMC) that they would be given permanent rent free allotment of those stalls. But subsequently Toujis have been created in their names at a monthly rent of Rs.2.00/- per sq ft. for each of the stalls. The provisional Toujis have been issued to the petitioners w.e.f 01.04.2013 and in all the Toujis 'premium due' has been indicated. On 30.04.2022, the Municipal Commissioner visited the market and thereafter notices were issued to the stall owners which have been annexed to the writ petition. Those notices were issued on 04.05.2022 asking the petitioners to pay their outstanding premium of rent w.e.f 01.04.2013 with penal interest within a period of 03 days from the date of receipt of such notices. In response to the notices, the petitioners have also submitted their replies to the AMC which have also been annexed to the writ petition. Before such notices were issued to the petitioners, water and electricity line to the said municipal market were disconnected w.e.f 01.05.2022. As a result, now there is no conservancy service in the market. Therefore, the writ petitioners approached the AMC for restoration of the water and electricity connection and the conservancy services. But, the connections have not yet been restored. The writ petitioners have, therefore, approached this court by filing this petition claiming the following reliefs:

"a) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and / or any other order/orders shall not be issued whereby quashing the notices, dated 04.05.2022, issued by the Asst. Municipal Commissioner, North Zone, AMC, to all the petitioners.

b) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and / or any other order/orders shall not be issued whereby quashing the notices, dated 17.05.2022, issued by the Asst. Municipal Commissioner, North Zone, AMC, to all the petitioners

c) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and / or any other order/orders shall not be issued whereby directing the Respondents to restore the electricity, water connectivity and conservancy service at Mukut Bipani Bitan Market, Lichu Bagan, Agartala.

d) Pass an interim order by staying the operation of the impugned notices, dated 04.05.2022 & Notices, dated, 17.05.2022, issued by the Asst. Municipal Commissioner, North Zone, AMC, during the pendency of the writ petition AND Call for records pertaining to the instant Writ Petition from the custody of the Respondents and to make the rule absolute.

AND After hearing both the parties pass order/orders as this Hon'ble High Court considered fit and proper....."

[2] Heard Mr. P.Roy Barman, learned Sr. Advocate appearing along with Mr.S.Bhattacharjee, Mr.K.Nath and Ms. A.Debbarma, Advocates for the petitioner. Also heard Mr. Arijit Bhowmik, learned counsel representing the AMC i.e respondents No.1, 2 and 3 in the present case.

Mr.D.Sharma, learned Addl. GA appears for State respondent No.4.

[3] Counsel appearing for the petitioners contends that despite having no dues, electricity connection to the market has been arbitrarily disconnected by respondents 6 & 7. As a result there is no supply of water to the market and there is no conservancy service available in the market w.e.f 01.05.2022. Counsel submits that not only the stall owners are suffering from loss of livelihood, the people in the neighbourhood are also suffering from serious hardships because the market is not operating due to disconnection of water and electricity. Counsel contends that no default notice was issued to the petitioners before disconnection of electricity and the petitioners have no dues towards electricity charges. Counsel therefore, urges the court to provide interim relief to the writ petitioners by asking respondents 6 and 7 to restore the electricity connection to the market immediately. [4] In the course of his arguments, Mr. Roy Barman, learned Sr. Advocate has referred to the decision of the apex court in CHAMELI SINGH AND OTHERS Versus STATE OF U.P AND ANOTHER reported in (1996) 2 SCC 549 wherein the apex court in paragraph 8 of the judgment has held that right to shelter includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc so as to have easy access to daily avocation. Mr. Roy Barman, learned senior advocate, contends that due to disconnection of electricity and water, petitioners have lost their avocation. Counsel contends that right to have electricity connection and water connection and other basic amenities are essential requisites to human rights which cannot be denied to the petitioners. To nourish his contention counsel has relied on the judgment dated 22.10.2018 of the Himachal

Pradesh High Court in Madan Lal vs. State of Himachal Pradesh and others (CWP 2454 of 2018) wherein the Himachal Pradesh High Court in paragraph 7 of the judgment has held as under:

"7.The question that falls for consideration is whether the petitioner, as an interim measure, be allowed the basic amenities of water and electricity. There is no gain in saying that potable water or electricity are integral part of Right to Life within the meaning of Article 21 of the Constitution of India. These are basic necessities for human being and can well be termed as essentials of human rights. If the title dispute, owing to the prescription of right to appeal under the Statute remains pending for considerable long period, we see no reason to deny the petitioner's family the basic amenities of water and electricity, subject to their payment of requisite charges. It goes without saying that in the event of petitioner's having failed to prove his right to retain the possession, both facilities will also go along with the residential house."

[5] Mr. A.Bhowmik, learned counsel appearing for the AMC submits that the Municipal Commissioner visited Mukut Bipani Bitan market on 30.04.2022 to oversee the condition of the market. At that time the writ petitioners abused him. Subsequently, the writ petitioners also tendered their written apology to the Municipal Commissioner under communication dated 06.05.2022. Counsel submits that this incident does not have any connection with the disconnection of electricity and water connection to the municipal market. Mr.Bhowmik, learned counsel submits that AMC does not have any knowledge as to why the electricity line has been disconnected. [6] Mr.D.Sharma learned Addl. GA appearing for Respondent No.4 submits that the representation submitted by the petitioners to respondents is pending for consideration. They have not yet decided those representations. Therefore, according to Mr.Sharma, the writ petition is pre mature and petitioners do not deserve any relief, as prayed for. [7] Having heard the submissions of learned counsel representing the parties and the having perused the materials placed before this court, this court is of the view that electricity connection to the said market which is accessed by public should be restored immediately. Therefore, respondent No.6 and 7 are directed to restore the electricity connection to the municipal market namely Mukut Bipani Bitan by tomorrow.

[8] It is submitted on behalf of AMC that once the electricity connection is restored the water pump can be operated and no separate order for restoration of water connection is necessary.

[9] The petitioners are directed to clear all electricity and water charges, if any, within a period of 1 month from today, failing which the TSECL and AMC will be at liberty to take appropriate action in accordance with law.

[10] Notice has been waived on behalf of the Respondents 1, 2 and 3. Therefore, no formal service of notice on Respondent 1,2 and 3 is required. [11] Mr.D.Sharma, Addl. GA has also waived service of notice on behalf of Respondent No.4. Therefore, no formal service of notice on Respondent 4 is required. It is stated that copy of the notice along with accompanying documents have been received by the counsel representing Respondents 1,2,3 and 4. [12] Notice shall be issued to rest of the respondents. Steps be taken by the petitioners within 3 days from today.

Copy of this order be communicated to Respondent No.6 and 7 forthwith for immediate compliance.

Copy of this order be given to learned counsel representing the parties.

List the matter on 05.07.2022.

JUDGE Saikat Sarma, PS-II