

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH: HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

W.P. (C) No. 08 of 2022

Mr. Kunchok Raptan Bhutia,
Aged about 53 years,
S/o Late Tshering Bhutia,
R/o Nam Nang,
P.O. & P.S. Gangtok, East Sikkim

..... **Petitioner**

Versus

1. State of Sikkim
Through the Chief Secretary,
Government of Sikkim,
Secretariat,
Gangtok, East Sikkim-737 101,
2. The Municipal Commissioner,
Gangtok Municipal Corporation,
Deorali-737102.

..... **Respondents**

**Violation of Article 14 and 19(1) (g) of the Constitution of
India.**

Appearance:

Mr. Thupden G. Bhutia, Advocate for the Petitioner.
Mr. Yadev Sharma, Government Advocate for Respondent
No.1
Mr. Jorgay Namka, Mr. Simeon Subba and Ms. Adeshna
Subba, Advocates for the Respondent No.2.

03.08.2022

O R D E R (ORAL)

Bhaskar Raj Pradhan, J.

1. Pursuant to an agreement dated 19.03.2020 entered
between the petitioner and the Gangtok Municipal Corporation,
the petitioner was given a contract for a period of one year

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commencing from 1st April 2020 and ending of 31st March 2021 with a lock in period of six months at the beginning of the agreement. The contract was for car parking of the schedule premises for Zone-V within the jurisdiction of Gangtok Sikkim. It is asserted that after four days of entering the contract the COVID-19 pandemic broke out with the result that there was no traffic and the petitioner could not earn any money from the business. It is the petitioner's case that as per the agreement an amount of Rs.11,76,500/- was fixed as the contract rate per annum exclusive of all charges and other charges which was paid. Besides an amount of Rs.2,05,034/- had also been deposited by the petitioner with the Gangtok Municipal Corporation as security deposit. The petitioner seeks refund of both these amounts i.e. the contract rate as well as the security deposit.

2. Mr. Jorgay Namka, learned counsel for the respondent no.2 fairly submits that insofar as the security deposit is concerned it is refundable and the Gangtok Municipal Corporation is bound to do so. It is also submitted that considering the unfortunate events due to the COVID-19 pandemic the Gangtok Municipal Corporation is willing to consider the request of the petitioner to refund the contract rate to the extent possible. The learned counsel for the petitioner submits that it is a fair submission.

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3. In view of the aforesaid, the writ petition is disposed of with the direction to the Gangtok Municipal Corporation to refund the security deposit and to consider the request of the petitioner to refund the contract rate as well, keeping in mind the fact that the nation suffered immensely due to COVID-19 pandemic and the lockdown. The writ petition itself shall be taken as the application before the Gangtok Municipal Corporation who shall consider the same within a period of 15 days from today and the decision communicated in writing within a week thereafter. The writ petition is disposed of with the above directions.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**
Internet : **Yes**

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