

IA No. GA 1 of 2020
WPO No. 340 of 2020
In
APO No. 129 of 2020
IN THE HIGH COURT AT CALCUTTA
In appeal from its
CONSTITUTIONAL WRIT JURISDICTION
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

Prasanta Kumar Mondal
Versus
The State of West Bengal & Ors.

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice MD. NIZAMUDDIN
Date: 20th November 2020

Appearance:
Mr. Subir Sanyal, Advocate
Mr. Ramesh Dhara, Advocate
Mr. Sagnik Roy Chowdhury, Advocate
for the appellant/writ petitioner
Mr. Amitesh Banerjee, Sr. Advocate,
Mrs. Ipsita Banerjee, Advocate
for the respondent

The Court: The point involved in this appeal is very short. Taking this into account, we propose to dispose of the appeal and the connected application today, dispensing with the formalities.

The appellant/writ petitioner was an MR dealer under the Gosaba Block of South 24 Parganas. In or about April, 2013 he surrendered his licence on the ground that he had obtained employment with the government as a primary school teacher on 17th April 2013.

After obtaining this employment the appellant tried to have this licence transferred and/or tried to obtain a fresh licence in favour of his son which request was rejected by the respondent authority. This rejection was challenged by him in a writ application in this Court, which was dismissed.

Mr. Sanyal, learned advocate appearing for the appellant submits that his client realised that the job of the primary school teacher which he had obtained, was only for eight years and without pension.

On 7th November 2013 the appellant applied for restoration of his original licence which was rejected on 9th November 2016. The application dated 22nd August 2019 reiterated on 17th February 2020 for reconsideration of this decision was rejected on 11th March, 2020 by the said authority.

Mr. Sanyal took several points to challenge this decision. He said that the Deputy Director (License) Dte of DDP&S had no jurisdiction to pass this order. He also submitted that the decision was without reasons.

Prima facie we are not convinced with this argument. The Deputy Director (License) had stated in short that since the appellant's original license had been surrendered it could not be revived. For an administrative authority this reason, in our opinion, was sufficient.

In this appeal Mr. Sanyal states that the rules did not debar his client to continue dealership inspite of his service with the government as a primary school teacher. Secondly, his client is prepared to give an undertaking that if the dealership was restored he would immediately resign from his present employment.

At this point it may be stated that the respondent has also initiated the selection process to appoint an MR dealer for that area and that in the decision dated 11th March 2020 the appellant was given an opportunity to apply for this dealership against "vacancy notification".

This point whether the appellant could continue as an MR dealer despite being a primary school teacher was not before the Court below. Neither was any undertaking that the appellant would resign from service on getting back the dealership recorded before it.

We are not minded to stop the selection process. However, we wish to give the appellant an opportunity to prove the points that have been urged in this appeal, before the respondent authority.

Provided the appellant makes a fresh representation for consideration based on the above points before the Sub-Divisional Controller within ten days from date, he will consider the same within a further period of two weeks after giving an opportunity of hearing to the appellant. The decision shall be made by the Sub-Divisional Controller within four weeks from date.

We make it absolutely clear that we have not interfered with the selection process, but it is implied that it is subject to the above decision.

The impugned judgment and order of the court below dated 13th October, 2020 is modified to the above effect.

The appeal and the connected application are disposed of by this order.

(I. P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)