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04.08.2021.
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 9389 of 2021
(Via Video Conference)**

**Ajit Kumar Das
-versus
State of West Bengal & Ors.**

**Mr. Ram Anand Agarwala,
Ms. Nibedita Pal,
Mr. Ramesh Dhara,
Mr. Ananda Gopal Mukherjee.
...For the Petitioner.**

**Mr. Susovan Sengupta,
Mr. Manas Kumar Sadhu.
...For the State.**

**Mr. Samiran Mandal.
...For the Respondent No.5.**

The father of the petitioner Satish Chandra Das was a licensee of a Fair Price Shop. He died intestate on 18th March, 2017. Prior to his death, the petitioner contends, the licensee sought for transferring the license in favour of the petitioner, Ajit Kumar Das.

Though the petitioner contends that the said prayer of the licensee was taken up for consideration and an enquiry was made, but it appears from the records that the prayer of the licensee was not allowed by the respondents within his lifetime.

After the death of the licensee, Sri Ajit Kumar Das and Sri Shib Shankar Das, both the sons applied for transfer of the license in their favour. The

applications of both the brothers were rejected by the Sub-Divisional Controller, Food and Supplies, Khatra by an order dated 21st September, 2020. It was recorded in the said order that the legal heirs of the deceased licensee failed to come into a settlement for choosing suitable applicant among themselves and for which, in spite of repeated intimations and correspondences, the parties failed to produce requisite documents.

The respondents came to a decision that on the ground of non-production of requisite documents in support of transfer, license on compassionate ground cannot be approved and necessary direction may be given for declaring resultant vacancy in the area.

It has been submitted that the vacancy has not been declared till date. The consumers have been tagged with the nearby dealer.

According to the provisions of law, on the death of a licensee, the legal heirs of the licensee are to produce a 'No Objection Certificate' in favour of the intending candidate. The same being absent in the instant case the authority rightly rejected the prayer of both the brothers.

It has been submitted by the learned advocate appearing for the respondent No.5, Shib Sankar Das that talks for settlements are going on between the brothers.

In view of the above submissions, the instant writ petition is disposed of by directing the Sub-Divisional Controller, Food and Supplies being the respondent No.

4 herein to give one more opportunity to the warring brothers to arrive at a settlement.

In the event the settlement in the form of 'No Objection Certificate' is filed before the aforesaid respondent within 90 days from date, the respondent No.4 shall proceed to deal with the same in accordance with law.

In the event no settlement is arrived at between the brothers, within the time stipulated herein above, the respondent No.4 will be at liberty to declare the vacancy in the area and to fill up the same in accordance with law.

W.P.A. 9389 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)