

13.12.2021.
Court No.13
Item No. 44
ap

**W.P.A. No. 18799 of 2021
(Through Video Conference)**

**Indranil Roy
Versus
The State of West Bengal & Ors.**

Mr. Ananta Kumar Shaw,
Mr. Mainak Ganguly.

...For the petitioner.

Mr. Anirban Ray, Id. G.P.
Mr. Raja Saha,
Mr. Debasish Ghosh.

...For the State.

Affidavit-of-service filed in Court today be taken
on record.

The writ petitioner is aggrieved by an order dated 7th October, 2021 passed by Excise Commissioner, West Bengal in an appeal filed by the petitioner for refusal of licence under Category 4(i). The petitioner after being granted temporary licence, was considered eligible for permanent licence and was notified on 3rd January, 2019 to deposit the requisite fees and other amounts though no time limit was specified.

It is submitted by the Counsel for the petitioner that based on a Notification dated 4th January, 2019, the Authorities put in a stipulation of 15 days and thereafter refused to issue any such permanent licence. It is further submitted by Counsel for the petitioner that his client was in serious financial

crises, inter alia, for attending his mother's kidney ailment and hence could not make payment in time.

The Collector had rejected the petitioner's prayer and the matter was carried to the Excise Commissioner, West Bengal. The Excise Commissioner, West Bengal has also rejected the petitioner's prayer for extension of time to put in the deposit amounts.

Counsel for the State would argue that the petitioner was granted sufficient time including a show-cause notice on 5th February, 2019 as to why his approval should not be terminated for non-deposit.

Counsel for the petitioner submits that since after withdrawal of the offer of the State, his login id was terminated and he had no way of putting in the money.

This Court does not wish to enter into any further arguments advanced by the parties.

Since in terms of Rule 4 of the Consolidated Rules made under Section 85 of the Bengal Excise Act, 1909, an appeal from an order of the Commissioner would lie to the Secretary, Excise Department, Government of West Bengal. The instant writ petition is not entertained.

The petitioner may therefore apply before the Secretary, Excise Department, Government of West Bengal, within a period of seven days from date. The

Secretary, Excise Department, Government of West Bengal may take a suitable decision in the matter within a period of two months thereof.

It is made clear that the period of limitation for preferring the appeal before the Secretary, Excise Department, Government of West Bengal has been condoned by this Court as an exception and without precedent.

Hence, the instant writ petition must fail and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)