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10.12.2021.
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side
(Via Video Conference)**

W.P.A 19627 of 2021

**All Bengal Fair Price Shop Dealers'
Welfare Association & Anr.
-versus
State of West Bengal & Ors.**

**Mr. Debabrata Saha Roy,
Mr. Pingal Bhattacharyya,
Mr. Subhankar Das,
Mr. Neil Basu.**

...For the Petitioners.

**Mr. Samrat Sen, Ld.AAAG,
Mr. Anirban Ray, Ld. G.P.,
Mr. Nilotpal Chatterjee.**

...For the State.

The petitioners are aggrieved by the show cause notices issued in their favour in November 2021 whereby they have been directed to show cause as to why the licensing authority should not take penal action against them for violation of the provisions of WBUPDS (M&C), Order 2013, 'Control Order, 2013' for short.

According to the petitioners, Control Order, 2013 has been repealed by the Central Control Order, 2015 and as such, no steps can be taken by the respondent authorities relying upon the repealed Control Order. Time to file reply to the show cause has expired.

The petitioners submit that the Government cannot force the ration dealers to perform the work of seeding. As per the direction of the Central Government

it is the responsibility of the State Government to do the seeding and the linking. Failure on the part of the State Government to link the Aadhaar card with the ration card cannot give rise to a cause of action for issuance of the show cause notice against the petitioners.

Prayer has been made for setting aside the show cause notices on the ground of being issued on the provision of a law that is non-existent at present.

The learned senior advocate appearing for the respondents submits that the State Government has issued specific guidelines to the Fair Price Shop Dealers as to how the seeding has to be done.

It has been submitted that there are various mechanisms for seeding and linking the ration cards with the Aadhaar cards. The same can be done in the fair price shop, at the Bangla Sahayata Kendras and also at the office of the Area Inspector.

According to the petitioners, Aadhaar and ration card link has to be done by persons engaged by the State Government i.e. Webel Technology Limited through Biometric authentication, Biometric scanner and Mobile app.

The order of the Government of West Bengal dated 26th November, 2021 which the petitioners are relying upon mentions about the steps taken by the department for linking Aadhaar with Ration Card. Apart from the special drive taken to link Aadhaar using e-KYC method by the personnel engaged by Webel Technology Limited Aadhaar linking is also done using e-KYC method at the office of the Area Inspector, Food

& Supplies and at Bangla Sahayata Kendras. E-KYC is also being done through Biometric authentication and Fair Price Shops, through e POS. Any beneficiary can get e-KYC done when she/he goes to lift the ration. In Duare Ration mode, the dealer comes to the house of the beneficiary where e-KYC can be done.

If the beneficiary wants to link Aadhaar with the Ration Card from home, the same can be done through visiting the departmental portal or through WhatsApp chatbot or mobile app Aamaar Ration.

From the aforesaid it appears that there are several modes of linking Aadhaar with the Ration Card.

Attention of the Court has been drawn to the Public Interest Litigation which has been filed before this Court. By an order dated 1st December, 2021 passed in the said PIL being WPA(P) 203 of 2021 (Manas Maity & Ors. –vs- Union of India & Ors.) the Hon'ble Division Bench directed the process of linking the ration card with the Aadhaar number to be expedited. The Hon'ble Division Bench has been pleased to direct the matter to be listed on 3rd January, 2022. The Court directed that all the instrumentalities, including the fair price shop dealers are expected to extend full cooperation in this process.

The submission of the petitioners is such that the entire responsibility of linking the Aadhaar number with the ration card lies with the consumers and the department(s) of the State. The ration dealers are not required to be involved in the process of linking or seeding. The dealers intend to shrug off the entire responsibility from their shoulders. Neither the State

Government nor the Central Government's notification permits the same.

The Hon'ble Division Bench directed that the ration dealers are expected to extend their full cooperation at the time of linking the Aadhaar number with the ration card.

The submission of the petitioners that no steps could have been taken under the provisions of the Control Order, 2013 does not appeal to the Court. It cannot be said that the State Government is powerless to take any action against an erring dealer who does not abide by the direction passed by the Government.

Prima facie it appears that the power of the State Government to control supply of ration articles to the beneficiaries flows from the Essential Commodities Act, 1955, the National Food and Security Act, 2013 read with the amendments and other relevant Government Orders and directions.

The State Government is merely trying to regulate the distribution of the food articles to the targeted beneficiaries in accordance with the provisions of the National Food Security Act.

It is settled law that writ petition challenging a show cause notice is usually not entertained because show cause notice does not give rise to any cause of action. More so, it does not amount to any adverse order which affects the right of any party. At the show cause stage the petitioners are not prejudiced at all.

As the writ petition has been filed at the stage of issuance of show cause notices, accordingly, the Court

is not entering into the arguments which have been advanced with regard to the validity of the 2013 Control Order.

It is made clear that at this stage the Court is not deciding upon the issue of validity of the 2013 Control Order. The same will be decided at an appropriate stage in a proper proceeding.

In view of the fact that the process of linking the Aadhaar with the ration cards are still continuing, as such time to file the reply to the show cause notices is extended till 31st December, 2021. If reply is filed within the time as extended hereinabove, the concerned respondent shall consider the same in accordance with law. The said authority shall pass a reasoned order and communicate the same to the petitioners immediately thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)