

Item No.86

25.11.2021
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

WPA 9810 of 2020
Jan Mohammed Mondal

v.

The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
Mr. Jahangir Hossain
... for the petitioner.

Mr. Sirsanya Bandopadhyay
Mr. Subrata Dasgupta
... for the State respondents.

Mr. Pinaki Dhole
... for the added respondent

The petitioner was appointed as Storing Agent for handling relief foodgrains by the Block Development Officer, Bamongola Development Block, Malda on January 11, 1984.

The petitioner continued to act as the Storing Agent till 2003 when the petitioner left for Haj. The petitioner by a letter dated 17th January, 2003 requested the Block Development Officer to permit his son Abdul Kader Mandal to perform the work during his absence. The prayer of the petitioner was accepted by the Block Development Officer.

According to the petitioner after returning from Haj he noticed that his sons in whose favour he

executed power-of-attorney misused the power. The petitioner, not being satisfied by the performance of his sons, by a letter dated February 2, 2005 intimated the Block Development Officer about the cancellation of the power-of-attorney and intimated that the attorneys do not have any power to interfere in any work of the Mid-Day-Meal Scheme.

On the basis of the aforesaid communication the distributorship of the petitioner was resumed and the authority permitted the petitioner to deliver the foodgrains for the Mid-Day-Meal Scheme.

The petitioner noticed that in spite of cancellation of the power of attorney the respondent authorities permitted the attorney of the petitioner to carry on with the work. The petitioner complained about the same to the respondent authority and prayed for taking necessary action by letter dated 30th May, 2006. He also requested the authority not to permit his attorney-holders to interfere in his business.

As no steps were taken by the respondent authorities to act in terms of the complaint filed by him the petitioner issued notice demanding justice through his learned advocate by letter dated 6th March, 2018.

As the representation filed on behalf of the petitioner was not considered by the respondents, the petitioner approached this Court by filing writ petition

being W.P. No. 6582(W) of 2018 which was disposed of by an order dated June 18, 2018. The Court directed the respondent authority to consider the representation filed by the petitioner.

The grievance of the petitioner presently is that in spite of the direction passed by the Court the respondent authority did not act in accordance with the same and the representation of the petitioner is pending consideration till date.

The petitioner candidly submits before this Court that he is a senior citizen and the business is his only source of income. Prayer has been made to permit the petitioner to continue and carry on the business for supply of the articles of the Mid-Day-Meal scheme.

The District Controller (F & S), Malda has filed a report in the form of affidavit. From the said affidavit it transpires that as on date there is no valid M.R./F.P.S. licence in the name of Jan Mohammad Mondal the petitioner herein.

It further transpires that one partnership firm is being run under the name and style of M/s. Jan Mohammad Mondal in whose name an active M.R. Dealership licence is subsisting. The firm operates as a fair-price shop.

The licence has been annexed to the affidavit. It appears therefrom that the licence stands in the name of

M/s. Jan Mohammad Mondal as a partnership firm and that one Abdul Karim Mondal and Shilpi Sarkar are partners of the said firm.

A further communication dated June 11, 2015 made by the petitioner to the Sub-Divisional Controller (F & S), Malda is also annexed to the report. The said communication has been made by M/s. Jan Mohammad Mondal wherein it has been categorically stated that:-

“ I Jan Mohammad Mondal is one of the partners of M/s. Jan Mohammad Mondal of Vill-Sankarpur, P.O. & P.S.-Bamangola, Malda. My son Abdul Karim Mondal is one of the partner with me. At present due to medical ground I retired from this firm, I am now 75 years old, I have been suffering from various old aged diseases. Due to illness I retired from this firm. My son will stay in this firm. After retirement I wish to include my daughter-in-law Shilpi Sarkar in this firm. Now my above mentioned son and daughter-in-law would stay in this firm. I submitted all necessary papers including registered deed and first class Judicial Magistrate affidavits papers in it.

So, I therefore, request you will kindly grant my pray which I may include my daughter-in-law with my son at an early date in lieu of me.”

It appears from the above mentioned document that the petitioner himself approached the authority with a prayer for inducting his son and daughter-in-law as partners of the partnership firm. Acceding to the prayer of the petitioner his son and daughter-in-law have been inducted as partners and the licence is presently standing in the name of the partnership firm. The petitioner as an individual does not have a valid licence in his name as on date.

Accordingly, the prayer of the petitioner for permitting him to continue as a carrying agent under the Mid-Day-Meal Scheme cannot be allowed.

It appears from the records filed with the report of the District Controller that the petitioner has suppressed material facts to obtain favourable orders. The stand of the petitioner cannot be appreciated at all and is utterly deprecated.

No relief can be granted to the petitioner in this writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)