

03.03.2022

Ct. No. 13

Sl.7

pk

W.P.A No. 1593 of 2022
(Through Video Conference)

Sefali Pramanick and another
Vs.
The State of West Bengal and others

Mr. Arnab Pramanick
.... Petitioner (In Person)

Mr. Raja Saha,
Mr. Debasish Ghosh
... for the State.

It appears from the records that Joydeb Pramanick was original licensee of Dakshin Barasat Country Spirit Shop. On the basis of some communications as regards illness of Joydeb Pramanick, the excise licence for sale of country liquor was settled jointly in the name of his brother, Basudeb Pramanick on 18.12.2001. Basudeb Pramanick was the salesman of the said shop. By a communication dated 01.12.2020 the said Joydeb Pramanick had applied before the Excise Commissioner, West Bengal for settlement of excise licence of Dakshin Barasat Country Spirit Shop in the sole name of Joydeb Pramanick.

During the pendency of such application, the said Joydeb Pramanick died on 08.02.2021. The surviving legal heirs of Joydeb Pramanick had applied for transfer of licence in their favour. The excise

licence was temporarily settled in favour of Basudeb Pramanick in the interest of Government revenue and to cater demand of liquor in the locality under Section 37(c) of the Bengal Excise Act, 1909.

There have been two developments that must be marked and noted that has already been recorded in the order dated 1st September, 2021. On 18.04.2019 the joint licensee was stated to have applied to induct one Somnath Mondal into the shop. The said application remains pending. This, according to the writ petitioner, was part of a larger fraud engineered by the said Basudeb Pramanick to oust the family of the said Joydeb Pramanick from the business. The other fact is the submission of communication of Joydeb Pramanick to the excise authority that a false statement as regards his illness was sent and based on which, forged documents have been submitted to the excise authority by the said Basudeb Pramanick.

The aforesaid matters despite having been recorded have not been addressed and discussed in the final portion of the order.

It is also clear from the impugned order itself that Basudeb Pramanick was inducted under Section 37(c) of the Bengal Excise Act, 1909 as salesman only, to ensure that the shop continues to run and to meet local demands.

In that view of the matter, this Court is of the view that the order dated 1st September, 2021 is perverse.

The order dated 01.09.2021 passed by the ADM(Gen) and Collector of Excise, South 24 Parganas shall stand quashed and set aside.

Basudeb Pramanick shall, however, continue to run the shop for a period of 45 days from date as salesman in terms of Section 37(c) of the Bengal Excise Act, 1909.

The Additional District Magistrate (G) and Collector of Excise, South 24 Pargnans shall conduct a fresh hearing of the matter where the writ petitioners and/or their legal representative as also the said Basudeb Pramanick shall be heard. A suitable and appropriate order shall be passed by the Additional District Magistrate (G) and Collector of Excise, South 24 Pargnans within a period of one month from the date of communication of a copy of this order.

The Collector shall decide the transfer of the original licence in the name of Late Joydeb Pramanick in favour of legal heirs and the rights of Basudeb Pramanick, if any, may also be pronounced upon.

The order shall be communicated to the parties within seven days thereof.

It is made clear that the said order shall be given effect to immediately upon the same being made.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)