

Item No. 236

01.04.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4185 of 2020
Debasis Mondal
v.
The State of West Bengal & Ors.

Mr. Wasim Raj Sardar
Mr. Apurba Krishna Das
... for the petitioner.

None appears on behalf of the respondents despite service.

The predecessor-in-interest of the petitioner was holder of FPS Licence as well as S.K. Oil Licence.

After the death of his predecessor-in-interest, the Sub-Divisional Controller of Food & Supplies engaged the petitioner on compassionate ground only in respect of FPS Licence.

The prayer of the petitioner for getting S.K. Oil Dealership Licence on compassionate ground was rejected on the ground that as the FPS Licence has already been issued in his favour on compassionate ground and it is the regular means of subsistence, the prayer for grant of S.K. Oil Licence on compassionate ground is rejected.

The petitioner relies upon an order dated July 16, 2010 issued by the Principal Secretary (F & S)

Department & Commissioner, Food, Directorate of Consumer Goods which mentions that it has been decided in the Food & Supplies Department, Government of West Bengal that henceforth both the licenses should be allowed to the eligible legal heir/heirs of the licensee provided he/she used to hold both. The dependent heir should not be in any employment either in any Government Service/Undertaking or any local bodies. He should also not be under the payroll of any other organization whatsoever, or holding-office of profit.

In the present case, it appears that the aforesaid order of the Principal Secretary was over-looked by the District Controller while passing the order of rejection on February 7, 2022. There is no reflection in the impugned order that the District Controller took into consideration the order of the Principal Secretary dated July 16, 2010. It has also not been brought to the notice of the Court that the said order dated July 16, 2010 has been withdrawn or recalled.

No case has been made out that the petitioner is in employment either in any Government Service or Undertaking or he is otherwise ineligible to get the benefit of the order dated July 16, 2010.

In view of the above, the impugned order dated February 7, 2020 is set aside and quashed.

The District Controller, Food & Supplies, Paschim Burdwan is directed to revisit the issue of grant of S.K. Oil Licence in favour of the petitioner on compassionate ground strictly in accordance with law and upon taking into consideration the order dated July 16, 2010 referred to hereinabove.

Decision shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of a copy of this order.

The petitioner is directed to forward a copy of the order dated July 16, 2010 along with all other supporting documents to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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.)