

211.
4.05.2022
S.D.

W.P.A. 6086 of 2022

**Swapna Majumdar
Vs.
The State of West Bengal & Ors.**

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharya
Mr. Subhankar Das
Mr. Neil Basu

... For the Petitioner.

Ms. Sutapa Sanyal
Ms. Susnita Saha

..For the State.

The petitioner seeks to be engaged on compassionate ground. She happens to be one of the eligible heirs of the deceased FPS cum Kerosene Oil dealer, Gopal Chandra Majumdar.

The application of the petitioner was rejected as she failed to submit the application along with the no objection from the other heirs of the deceased. The deceased has three daughters; out of whom two are married and one unmarried and a son. The unmarried daughter of the deceased is the applicant who seeks licence on compassionate ground. The married daughters have already given their no objection in favour of their sister, the applicant but the brother is standing on the way.

According to the petitioner, the brother is not an eligible heir to whom the licence may be issued. The brother, i.e. the son of the deceased does not have the requisite balance in the bank account and he also does not have the infrastructure for setting up the FPS and Kerosene oil business. The existing infrastructure is in possession of the petitioner herein. The shop room and the godown stand in the name of the petitioner and she happens to be the most eligible heir for obtaining the licence on compassionate ground.

The son of the deceased has been impleaded as the private respondent herein and service of the writ petition was effected on him. The private respondent chose not to appear in the instant proceeding.

The State respondent has filed a report in the form of an affidavit wherein it has been mentioned that the private respondent filed an objection for grant of licence in favour of the petitioner herein.

As the heir of the deceased failed to apply with the necessary no objection from the other legal heirs, accordingly, the State respondents have taken steps for declaration of vacancy in the said locality.

Paragraph 20(vi) of the Control Order, 2013 has been placed. According to the Control Order, in case of vacancy arising out of death, the vacancy is not initially notified. Prayer of any of the family members of the deceased dealer having no regular means of subsistence is to be considered with preference on compassionate ground provided the prayer along with the formal application with the requisite fee is submitted within 60 days from the occurrence of the vacancy. While applying, the applicant is required to furnish no objection from the other family members in the form of an affidavit executed before the First Class Magistrate.

In the present case, it appears that the applicant, i.e. the petitioner herein failed to furnish the required No Objection Certificate from the son of the deceased. In the absence of the same, the respondent authority proceeded to declare the vacancy for filling up the same in accordance with the provisions of the Control Order.

Fact remains that the petitioner claiming to be the most eligible heir made the application, but failed to furnish the No Objection Certificate as required. Accordingly, the respondent authority was left with no other alternative but to declare the vacancy for filling up the same. At this stage, it will not be proper for the Court to pass any order for issuance

of license in favour of the petitioner herein as the provision of the Control Order, 2013 relating to engagement on compassionate ground has not been complied with by the petitioner.

The Sub-Divisional Controller is directed to conclude the steps taken for filling up the vacancy strictly in accordance with the Control Order, 2013.

The writ petition stands disposed of.

There shall, however, be no order as to costs.

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

(Amrita Sinha, J.)