

Item 22. 07-06-2022

MAT 654 of 2022
CAN 1 of 2022

^{sg} Ct. 8

Prodyut Kumar Ghosh
Versus
State of West Bengal & Ors.

Mr. Sanat Kumar Roy, Adv.
Mr. Baidurya Ghosal, Adv.
Mr. Abhishek Banerjee, Adv.
...for the appellant

Mr. Susovan Sengupta, Adv.
Mr. Manas Kumar Sadhu, Adv.
...for the State

By consent of the parties, the appeal and the connection application are taken up together and disposed of by this common order.

The appeal is arising out of an order dated 31st March, 2022 in a writ petition filed by the appellant, inter alia, praying for quashing of the impugned order dated 20th May, 2014 and for direction upon the respondent no.2 to decide the representation of the writ petitioner dated 21st October, 2014 in the light of the order passed earlier on 31st March, 2022 in WP 9564(W) of 2014.

The writ petitioner was an M.R. cum Kerosene Oil dealer. The petitioner made a representation to the authorities for tagging the ration cards or termination of his dealership as he was medically unfit at that relevant time. Subsequently, the appellant filed a writ petition being WP No. 9564(W) of 2014 praying inter alia for a declaration upon the Sub-Divisional Controller, Burdwan to allow him to resume his dealership. The reason being that he had recovered from his mental illness and is in a position

to run his business. The said writ petition was disposed of by directing the Sub-Divisional Controller to dispose of the representations dated 4th May, 2012 and 31st October, 2012 by passing a reasoned order and after giving an opportunity of hearing to the petitioner. The Sub-Divisional Controller thereafter passed an order on 20th May, 2014 rejecting the representations of the petitioner dated May 4, 2021 and October 31, 2012 respectively. Thereafter, the appellant filed another representation on 21st October, 2014 prying for recalling of the decision of the Sub-Divisional Controller dated 20th May, 2014.

The grievance of the appellant seems to be that though the dealership has not been terminated, the respondent authorities was not allowing the appellant to resume his business. The stand of the appellant before the learned Trial Court and also before us is that the representation of the writ petitioner was not considered by the authority concerned in its order dated 20th May, 2014 in terms of the direction passed by the learned Single Judge in WP No. 9564(W) of 2014.

It has been strenuously argued that the authorities under the facts and circumstances ought to have allowed the appellant to resume the dealership business since the same was expressly terminated by the authority. Since no affidavit in opposition was filed in the writ petition, it was argued that the Court should apply the doctrine of non-traverse and accept the grievance of the writ petitioner.

The learned Single Judge considered the order dated 20th May, 2014. While considering the said order, it transpired that an

inspection was conducted on 10th June, 2011 and discrepancies were detected and a show cause notice was issued to the petitioner. The appellant/writ petitioner in reply to the said show cause notice submitted that he had no objection with regard to either termination of dealership or for tagging of the ration cards with other dealer. The Sub-Divisional Controller, on facts, has held that the resignation letter was submitted by the petitioner in order to escape from the proceeding that was initiated against him for contravention of WBPDS(M&C) Order, 2003. It was further recorded in the said order that a vacancy was declared for the area in question relating to engagement of a dealer in the existing vacancy and applications were invited for filling up the vacancy of the dealership at Shyamnager but the writ petitioner in spite of declaration of such vacancy did not submit any application for the said vacancy. It was further recorded in the said order that the licence of the petitioner was valid till December, 2011.

These factual findings could not be shaken by the writ petitioner/appellant in this proceeding. It is not disputed that the licence of the writ petitioner was valid till December, 2011. It is also an admitted position that the writ petitioner in his reply to the show cause notice clearly stated that he did not object to the termination of such dealership. It was, on such conspectus of facts, the order passed by the authority concerned on 20th May, 2014 and the conclusion arrived at by the learned Single Judge in accepting the said order of the authority concerned, in our view, does not call for any interference.

For the reasons as aforesaid, the appeal fails. the application

stands dismissed. However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)