

220.
4.05.2022
S.D.

W.P.A. 7819 of 2022

**Sabita Pramanick
Vs.
State of West Bengal, Service.**

Mr. Mahadeb Sarkar

... For the Petitioner.

Mr. Sirsanya Bandyopadhyay

Ms. Tapati Samanta

..For the State.

The petitioner seeks engagement on compassionate ground. The husband of the petitioner was an M.R. dealer. He voluntarily surrendered his F.P.S. licence on medical ground. A personal hearing was given to the husband of the petitioner on 15.05.2013. Considering his prayer to surrender his business, the Sub-Divisional Controller accepted his prayer for voluntary surrender and exempted from his duties with effect from 02.06.2013. All his books of accounts, license CTC were seized. Direction was given upon the Area Inspector to tag the account of Shri Bimal Krishna Pramanik by opening three separate temporary counters with separate M.R. dealers. A proposal was forwarded for declaration of vacancy.

Thereafter, it appears that there were some difficulties in tagging the ration cards of the husband of the petitioner with other M.R. dealers and accordingly, Shri Pramanik was permitted to continue M.R. business for the interest of public distribution before the ensuing Panchayat Election 2013. The Area Inspector was again directed to submit proposal for three new resultant vacancies.

The Inspector, F&S by a communication dated 07.01.2014 intimated the licensee, i.e. Shir Bimal Krishna Pramanik that the ration cards of the MR shops had been tagged with two separate counters and all his books of accounts have been seized. The seizure list was also forwarded to the husband of the petitioner.

The husband of the petitioner expired on 21.04.2019. After his death, the petitioner applied for grant of licence in her favour on compassionate ground. As the same was not considered, the petitioner approached this Court by filing a Writ Petition being WPA 15340 of 2021 which stood disposed of by an order dated 28.09.2021 directing the District Controller, F&S to consider the representation filed by the petitioner.

Presently, the petitioner alleges that without complying the order passed by the Court and without considering the

representation filed by the petitioner, the respondent authority declared vacancy in the same location.

Learned advocate representing the State respondents submits, upon instruction, is that the petitioner does not have a case for being considered for engagement on compassionate ground. The license standing in favour of the husband of the petitioner stood surrendered way back in the year 2013 and the husband of the petitioner expired in the year 2019. The petitioner applied for being engaged on compassionate ground in the year 2021.

From the documents annexed to the writ petition and documents which has been handed over in Court by the learned advocate representing the State respondents, it appears that the Court by order dated 28.09.2021 directed the respondent authority to consider the prayer of the petitioner, but at the same time, the order recorded that the Court has not entered into the merits of the claim of the petitioner and all points were left open to be decided by the respondent at the time of consideration of the representation.

Admittedly, on the date of death of the licensee there was no license standing in his name. The process to surrender the license attained finality in January 2014. Thereafter, the spouse of the deceased licensee, i.e. the petitioner herein did

not take any steps for being engaged on compassionate ground. It is after the death of her husband that the petitioner made application for being engaged on compassionate ground.

According to the provisions of law, the application for engagement on compassionate ground can be entertained only when there was a valid license in favour of the licensee on the date of death. In the present case, vacancy arose in the year 2014 and steps were taken for declaring the vacancy in the year 2014 itself.

The present declaration of vacancy does not have any relationship with the application made by the petitioner for being engaged on compassionate ground. The petitioner has failed to satisfy that her application can be considered in accordance with the provisions meant for consideration of application under compassionate ground.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition fails and hereby is dismissed.

The instruction given by the Sub-Divisional Controller, F&S, Bongaon, North 24-Parganas, dated 04.05.2022 be retained with the records.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)