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18.05.2022
Court No.24
B.M.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 8496 of 2022

**Nitya Nanda Sadhukhan
-versus
State of West Bengal & Ors.**

Mr. Md. Yusuf Ali.
... for the Petitioner.
Mr. Timir Baran Saha
... for the respondent no.5

The matter relates to issuance of license on compassionate ground.

According to the petitioner, he is the heir of one Debdas Sadhukhan who was a distributor.

The said Debdas Sadhukhan died on 5th March, 2019 leaving behind his widow, two sons and one daughter.

The present writ petition has been filed by one of the sons of the deceased Debdas Sadhukhan and the other son of the deceased has been impleaded as private respondent in the writ petition.

According to the petitioner, he never issued any no objection in favour of the private respondent for obtaining the distributorship license in his sole name.

The petitioner made a representation before the District Controller alleging that he signed the document for grant of distributorship license on the impression that the said license would be issued jointly in the name of both the brothers. As he has presently got to learn that the private respondent was trying to obtain the license solely in his name, he filed an objection before the District Controller on 18th November, 2021 and prays for a direction upon the respondent authority to consider the said representation.

On the other hand, learned advocate representing the private respondent relies upon a no objection in the form of an affidavit, allegedly signed by the private respondent and the other legal heirs of the deceased Debdas Sadhukhan, wherein it has been clearly mentioned that they do not have any objection if the private respondent herein is engaged as distributor in place of their deceased husband/father.

The affidavit further mentions that if any objection is raised in future about furnishing the no objection, the same will not stand valid in the eye of law.

It has been submitted by the private respondent that on two occasions the petitioner signed the no objection in his favour and when the license is ready for issuance, the private respondent is trying to stall the same.

It has further been submitted that their father expired on March, 2019 and the objection was filed by the petitioner in November, 2021. The same implies that it is an afterthought and was filed with a mala fide intention to prevent the issuance of license in favour of the private respondent.

None appears on behalf of the State respondents despite service.

Affidavit of service filed in Court is taken on record.

As it appears that there are disputed questions of facts involved in the present writ petition which the writ court ought not to decide, accordingly, the Court thinks it fit to direct the District Controller, Food & Supplies, North 24 Parganas to consider the representation filed by the petitioner on 18th November, 2021 strictly in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties and to pass a reasoned order and to communicate the same to all the parties immediately thereafter.

If it transpires that the petitioner indeed issued no objection in favour of the private respondent on an earlier occasion, then the respondent District Controller shall proceed on the basis of the same and take necessary consequential steps in the matter.

The District Controller shall take steps to dispose of the representation at the earliest but positively

within a period of eight weeks from the date of communication of this order.

The petitioner is directed to forward a copy of his representation 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 be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)