Ct. 05
Item No.21
05.07.2022
(suvendu)

WPA 16283 of 2021

Shibnath Naskar
Vs.
The State of West Bengal & Ors.

Mr. Ashim Kumar Routh
……….for the petitioner

Mr. Raja Saha
Mr. Debasish Ghosh
……….for the State

The limited point in the present writ petition of the petitioner allegedly being deprived of Appellate Authority under Section 85(1)(c) of the Bengal Excise Act, 1909 can be answered taking recourse to Rule 4 of the Rules made under the 1909 Act. The said Rule is under Section 85 of the Act. Under Rule 4 an Appeal shall lie to the Secretary, Excise Department, Government of West Bengal from an order made under the Act by the Excise Commissioner.

The order impugned in the present writ petition is of 2nd September, 2021 and of the Excise Commissioner under the provisions of the 1909 Act.

Learned counsel appearing for the State submits that since the Excise Department is now under the Finance Department, the Secretary of the Finance Department is empowered to act as the Appellate Authority under the act of 1909 and the Rules framed thereunder.

WPA 16283 of 2021 is accordingly disposed of with liberty to the petitioner to approach the Secretary, Finance Department of the Government of West Bengal within seven days from today.

It should be noted that the prescribed time period under the Rule is thirty days. However, since the present writ petition has been pending before this Court since 29th September, 2021, the period of pendency is condoned for the purpose of limitation and the petitioner is given liberty to approach the Appellate Authority, as stated above, within seven days from today.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(**Moushumi Bhattacharya, J.**)