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WPA 18276 of 2022

Durjodhon Shil.
-vs-
State of West Bengal & others.

Mr. P. S. Bhattacharya
Mr. Sufi Kamal
Ms. Shireen Hossain

....for the petitioner

Mr. Ram Anand Agarwala
Ms. Nibedita Pal
Mr. Ananda Gopal Mukherjee
Ms. Sonam Ray

...for the private respondent

This is an application seeking direction upon the respondent authorities, particularly the respondent nos. 2 to 4, to take steps for renewal of licence of ration dealership in respect of a licence being licence no. MLD-CHCL-CHCL (II)-1332013001017 under the name and style “M/S. Shil Enterprise”.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The owner of M/S Shil Enterprise died leaving behind his two sons and two daughters in the year 2003. His proprietorship concern ran a fair price shop. After that, the fair price shop was run by the wife namely, Renu Bala Shil. She died in 2018. In 2019, the respondent no.5, a

brother of the present petitioner, made an application before the appropriate authority for obtaining a licence. However, this was done with ill motive of grabbing the entire dealership. The petitioner was not aware of the respondent's motive. After sensing the same, the petitioner applied for a dealership on compassionate ground in February 2022. In June 2022, the respondent authorities tagged the names of all the card holders with the nearest dealer. On 8th June, 2022, the petitioner made a complaint to the respondent no.3 requesting him to take steps. Thereafter, a hearing was done by the respondent no.3. In the interest of justice, both the brothers should be able to run the dealership through a partnership.

Learned counsel appearing on behalf of the State submits as follows. Since the petitioner died in 2018, an application should have been made positively within 120 days of such demise. If at all the respondent no.5 had applied for such dealership, such an application was not filed within time. There is no case made out for compassionate engagement in respect of such dealership.

Learned counsel appearing on behalf of the respondent no.5 submits as follows. The application made by the respondent no.5 was in time. The same is still pending and the respondent no.3 is in seisin of the matter. Let the contention of the petitioner and the respondent no. 5 be considered in accordance with law.

I have heard the submissions of the learned counsels

appearing on behalf of the parties and have perused the writ petition.

It appears that rival contentions have been raised by the petitioner and the respondent no.5. The application filed in 2019 is still pending. The petitioner's application made in 2022 is also being taken into consideration.

In view of the above and in the interest of justice, let the respondent no.4 enquire into the matter after giving necessary hearing to the parties interested and take a decision on the prayer made by the petitioner as well as the respondent no.5 in respect of obtaining dealership on compassionate ground in accordance with law.

Let the exercise be concluded by the respondent within two months from the date of communication of this order.

With these observations, the writ petition is disposed of.

There shall be no order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)