

07.02.2022
SL No. 159
Court No. 24
(P.M)

WPA 20531 of 2021

Md. Rajjak Ali
Vs
The State of West Bengal & Ors.
(Via Video Conference)

Mr. Timir Baran Saha
... for the petitioner

Mr. Sirsanya Bandyopadhyay,
Mr. Arka Kumar Nag
... for the State

The father of the petitioner was a FPS dealer. On his death the petitioner prays for being engaged on compassionate ground.

According to the provisions of law, for obtaining dealership on compassionate ground the interested family member of the deceased is required to produce a No-objection certificate from the other family members in the form of an affidavit executed before a First Class Magistrate.

The petitioner failed to obtain necessary no-objection certificate from the other family members. The respondent authorities accordingly issued an offer letter for grant of FPS dealership in favour of the spouse of the deceased.

The petitioner submits that the spouse of the deceased, i.e. his mother, is paralyzed and is suffering from various age-related health issues.

It has further been submitted that his mother is of unsound mind. She is not physically and mentally fit to run the FPS dealership.

The grievance of the petitioner is that his brother, in the name of the mother, is running the shop.

According to the provisions of law the respondents have offered the dealership to the spouse of the deceased licensee.

Presently, issue has been raised with regard to her soundness of mind and physical ability to run the business.

Accordingly, it will be open for the petitioner to approach the licensing authority by filing representation in support of his contention along with supporting medical documents that his mother is of unsound mind and physically unfit to run the business.

In the event such representation is made by the petitioner along with all medical documents in support of the unsoundness of mind and physical health of the widow of the deceased, then the same shall be taken into consideration by the licensing authority after giving an opportunity of hearing to all the necessary parties within a period of ten weeks from the date of making the representation.

The said respondent shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

The further grievance of the petitioner is that the Sub-Divisional Controller ought to have communicated the decision of the hearing held on 13th August, 2021 in compliance of the direction passed by this Court on 27th September, 2021 in WPA No. 13777 of 2021.

The Sub-Divisional Controller (F&S), Barasat Sub-Division is directed to communicate the decision to the parties within a week from the date of communication of this order.

It will be open for the licensing authority to review/revoke its decision for grant of offer letter in favour of the widow, in the event it appears that the allegation of the petitioner that the widow is physically and mentally unfit is supported by proper documents.

The writ petition is disposed of.

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

(Amrita Sinha, J.)