

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 26634 of 2022

Mati Lal Karan
Vs.
The State of West Bengal & Ors.

For the Petitioner : Ms. Usha Maiti
Ms. Lisha Maiti
Mr. Sakya Maity

For the State : Mr. T.M. Siddiqui
Mr. Nilotpall Chatterjee
Ms. Amrita Panja Moulick

For the private respondent : Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharyya
Mr. Subhankar Das

Heard on: 19th December, 2022

Judgment on : 19th December, 2022

The Court:

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to take steps for holding an enquiry as per the provisions of the West Bengal Public

Distribution System (Maintenance and Control) Order, 2013 for cancellation of dealership license for running of a ration shop granted in favour of the private respondent who had procured such license upon practicing fraud in place and instead of the dealership at Balipota, Pathra Gram Panchayat, Paschim Medinipur.

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

Learned counsel appearing for the petitioner submits as follows. The petitioner is the elder son of the former Fair Price Shop dealer. On 15.06.2020, father of the petitioner Lalit Mohan Karan passed away leaving behind two sons and four daughters. However, the petitioner came to know that after the death of her father, the petitioner saw that his younger brother Hiralal Karan was running the said dealership. Upon enquiry, he came to know that by practicing fraud upon the authorities, the said younger brother had procured the license in his own name during the lifetime of Lalit Mohan Karan on the compassionate ground of incapacitation of the former dealer. A letter was purportedly filed with the authorities nominating the younger brother as the person who would take the dealership in place of the original dealer. But, it did not contain the real signature of the deceased father. In fact, in that letter there was a false statement made that the said dealer had only one son and four daughters. Soon after the death of the dealer, the petitioner made an application before the authorities to have an enquiry done as also applying for dealership license in place of the deceased dealer. Yet, for a very long time, there was no response from the respondent authorities. Much later, on

16.09.2020, the respondent authorities informed the petitioner that a license was issued to the said younger son on medical ground (compassionate ground) on 13.11.2019. It was also stated there that no consent of the other legal heirs was required for such purpose. This has prompted the petitioner to file the present writ petition with the grievance that younger brother had fraudulently taken over the dealership and with a prayer that an enquiry may be done for cancellation of the brother's dealership.

Learned counsel appearing on behalf of the State submits as follows. An application for nomination by the original dealer was submitted as far back as in 2017. The same was allowed in 2019. Thereafter, the younger brother ran the business of the Fair Price Dealership without any objection. It was only after the demise of the original dealer that this issue has been raised by the petitioner. The petitioner has not even made a formal application for dealership incorporating "no objection" from the other legal heirs within the stipulated time.

Learned counsel for the private respondent relies on Clause 20 Sub-clause (vi) of the West Bengal Public Distribution System (Maintenance & Control) Order, 2013 and submits that no consent is required from the other legal heirs if the original dealer wishes to nominate a particular heir in respect of the provisions for running the dealership on medical ground.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition.

It appears that the purported application was made by the original dealer for nomination in favour of his second son in the year 2017. The same contains a purported signature of the original dealer. The statement in the letter that he had only one son and four daughters is but a family matter between the original dealer and his relatives. However, the respondents acted on the said letter and granted the dealership during the lifetime of the original dealer in favour of the second son and this was never objected to.

Although the petitioner has raised the issue of the younger brother practicing fraud in obtaining the dealership, no FIR has yet been lodged in this regard by the petitioner.

On the other hand, the private respondent appears to have been carrying on the business of running the FPS dealership for quite sometime without any objection.

In view of the above, I do not find any convincing material produced by the petitioner to even direct an enquiry into the matter. Therefore, the writ petition is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta,J.)