

158
18.02.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 26275 of 2016
(Via Video Conference)**

**Anil Chandra Garai @ Anil Garai
-versus
The State of West Bengal & Ors.**

**Mr. Sagar Bandyopadhyay,
Ms. Soma Kar Ghosh,
Mr. Abhishek Banerjee.
...For the Petitioner.**

**Mr. Susovan Sengupta,
Mr. Manas Sadhu.
...For the State.**

By an order dated 22nd December, 2016, the Court directed the respondents to file affidavit-in-opposition in the writ petition. Time to file the affidavit is long over. The affidavit has not been filed till date.

The grievance of the petitioner is succinctly stated in the order dated 22nd December, 2016 passed in this matter.

The State respondents have not come up with any other new ground in their support. The only ground taken for rejecting the prayer of the petitioner for continuing the business as proprietorship instead of partnership is that the 'No Objection Certificate' has not been submitted from the legal heirs of the deceased Anima Ghosh who happened to be the other partner of

the partnership firm which was being run by the petitioner and the said Anima Ghosh.

It is the categorical submission of the petitioner that none of the heirs of the deceased partner are interested to continue with the business.

The application of the willing legal heir of the deceased Anima Ghosh for being granted the license stood rejected by the respondents.

The petitioner thereafter by a representation dated 11th November, 2016 requested the respondents to issue the licence in respect of the Fair Price Shop as well as S.K. Oil dealership in his name.

As it appears that the issue cannot be decided conclusively by this Court in the absence of proper instructions from the State respondents, accordingly, the instant writ petition is disposed of by directing the respondent No.2 being the Director, District Distribution, Procurement & Supplies, Food & Supplies Department, Government of West Bengal herein to take a decision with regard to the notice demanding justice send on behalf of the petitioner on 11th November, 2016 strictly in accordance with law, after giving an opportunity of hearing to the petitioner and all other necessary parties within a period of twelve weeks from the date of communication of a copy of this order and pass a reasoned order and communicate the same to the petitioner and all other necessary parties immediately thereafter.

In the event it appears that the heirs of the deceased partner do not take steps for making themselves available in the hearing to be conducted by

the aforesaid respondent, then necessary orders may be passed by the Director in their absence.

Till such time the respondent authority considers the matter and passes a final order after hearing all the parties, the respondent shall not proceed any further with regard to the declaration of the vacancy in the location in question.

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.)