

Court No. 24
01.02.2022
(Item No. 176)
(AB)

W.P.A. 8692 of 2020
(via video conference)

Gurupada Das
VS
The State of West Bengal & Ors.

Mr. Sujit Kumar Rath
..... for the petitioner
Mr. Susovan Sengupta
Mr. Subir Pal
..... for the State

The order dated 24th September, 2020 issued by the District Controller (Food & Supplies), Purba Medinipur is under challenge in the present writ petition.

Fact remains that the Sub-Divisional Controller (Food & Supplies) conducted a field enquiry on receipt of a complaint against the petitioner from some of the consumers. During the field enquiry it was revealed that the dealer did not provide P.D.S. commodities against few DRCs approximately 29 members in favour of those who already existed in the portal of Food & Supplies department and whose allotment was being given regularly.

The Sub-Divisional Controller was of the opinion that the action of the dealer was in contravention of clause Nos. 18 & 19 (6) of part-III of WBPDS (M&C) Order, 2013. The petitioner was given an opportunity of hearing and in the meantime his dealership was put under temporary suspension and the rationees were tagged with the neighbouring FPS dealer.

After consideration of the reply to the show cause submitted by the petitioner the Sub-Divisional Controller invoked the power conferred in paragraph 24(ii) under part-

III of the Control Order, 2013 and terminated the license of the petitioner.

The petitioner being aggrieved by the order of termination preferred an appeal before the District Controller (Food & Supplies).

The District Controller passed the impugned order wherein it has been mentioned that the decision taken by the concerned Sub-Divisional Controller (Food & Supplies) is void and upheld the decision of terminating the license.

The order passed by the District Controller is self-contradictory.

In the event, the District Controller accepted the order of termination passed by the Sub-Divisional Controller then he ought not to have mentioned that the order was void. Had the order been void there is no scope of upholding the said decision. The District Controller in one hand opined that the order was void but for reasons unknown upheld the same.

The learned advocate for the petitioner submits that the order passed by the District Controller is a cryptic one and there is no indication whether the grounds raised by the petitioner before the appellate authority was at all taken into consideration or not.

A report has been filed by the Sub-Divisional Controller (Food & Supplies) Egra. There is no mention with regard to the contradictions in the impugned order passed by the District Controller (Food & Supplies).

The learned advocate for the State respondent however submits that there has been a typographical error in the concluding part of the impugned order but the said submission of the learned advocate does not find any place in the report filed on behalf of the respondent authorities.

Though, however, on a plain reading of the order impugned it appears that the District Controller found that the order passed by the Sub-Divisional Controller was valid and accordingly upheld the same, but as the finding of the District Controller does not mention that the order is valid, on the contrary, it mentions that the same is void, accordingly, the impugned order dated 24th September, 2020 appears to be inconsistent.

The same is accordingly set aside.

The District Controller (Food & Supplies) Purba Medinipur is directed to re-hear the appeal preferred by the petitioner strictly in accordance with law, 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 immediately thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)