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23.02.2022
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
(Via Video Conference)**

W.P.A. 275 of 2022

**Pannalal Saha
-versus
The State of West Bengal & Ors.**

**Mr. Debabrata Saha Roy,
Mr. Subhankar Das,
Mr. Neil Basu.**

...For the Petitioner.

None appears on behalf of the respondents in spite of service.

Affidavit-of-service filed in Court today is taken on record.

The petitioner is aggrieved by the suspension order which has been issued to the petitioner and his brother being the private respondent herein who are partners and running M.R. and Kerosene Oil dealership.

The license of the petitioner who is running the business as partnership thereafter stood terminated by an order dated 22nd December, 2021 as the petitioner failed to submit 'No Objection Certificate' of the other partner, i.e. the private respondent herein. The petitioner also failed to submit the no conviction declaration.

It is the specific case of the petitioner is that his brother, i.e. the private respondent is unwilling to continue with the business.

It has been submitted that the private respondent herein is deliberately not putting his signature in the application for renewal and due to such action on the part of the private respondent, the petitioner is not in a position to submit the necessary no objection certificate.

The petitioner has averred in the writ petition that the private respondent runs several other businesses and he is a rich man and he does not bother about the meager amount of proceed that is received from the partnership business as MR dealer and Kerosene Oil dealer.

The petitioner is solely dependent upon the proceeds of the present business and if the license for the said business is terminated, the petitioner along with his family members will have to starve.

The petitioner relies upon the amendment made in the West Bengal Public Distribution System (Maintenance & Control) Order, 2013 published in the Kolkata Gazette Extraordinary on 16th December, 2020 wherein provision has been amended that whenever a licensee of a partnership firm opt to induct a new partner or substitute the name of an existing partner, the licensing authorities may, on an application made by the licensee in this behalf, allow him to do so with the approval of the State Government.

The said provision has also mentions that the induction of a new partner or substitution of the name of an existing partner was permissible, if an only if, any of the family member of licensee having no regular

means of income is inducted or substituted as partner and not otherwise.

It appears from the submission of the petitioner that his brother is not at all willing to continue with the said business. The petitioner being the other licensee is solely dependent upon the proceeds of the business.

In view of the above, it will be open for the petitioner to make appropriate application before the licensing authority praying for inducting new partner by substituting the other partner i.e. the private respondent No.6 herein.

In the event such an application is made by the petitioner, the same shall be considered strictly in accordance with law, after giving an opportunity of hearing to the petitioner and all other necessary parties within a period of ten weeks from the date of making the application.

The licensing authority shall pass a reasoned order and communicate the same to the petitioner and all other necessary parties immediately thereafter.

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.)