

03.01.2022
Srimanta
Ct. No. – 02
Sl. No. 14

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 630 of 2021

**Kamal Barman
-versus
The State of West Bengal & Ors.**

Mr. Hillol Saha Poddar, Adv.,
Ms. Mousumi Das, Adv.

...For the Petitioner.

Mr. Subir Kumar Saha, Adv.,
Mr. Bikramaditya Ghosh, Adv.

...for the State.

Father of the petitioner was a M. R. Dealer having Licence No. MTB-MTBG(II)-132901200030 and MR-18 Shop No. 60 under the West Bengal Public Distribution System (Maintenance and Control) Order, 2013. Due to his old age, he filed an application before the concerned authority to transfer the said M.R. Dealership in favour of the petitioner. The said application was filed on 24th July, 2019. The petitioner also filed necessary documents so that the aforesaid M.R. Dealership may be transferred in the name of the petitioner before the Sub-Divisional Controller, Food and Supplies, Mathabhanga, respondent no. 3. It is further alleged that on 16th October, 2020, the father of the petitioner filed another application praying for

transfer of dealership in favour of his elder son, Jagadish Barman. It is alleged that the respondent no. 3 without making any enquiry transferred the said M.R. Dealership in favour of Jagadish Barman (respondent no. 4 herein).

According to the learned advocate for the petitioner, the act of respondent no. 3 is *mala fide* in nature and subject to scrutiny under Article 226 of the Constitution.

Having heard the learned advocates for the petitioner and the learned advocate for the State and on careful perusal of the averment made in the petition, the authority of the respondent no. 3 in granting or transferring M.R. Dealership was not in question or challenged by the petitioner. Only allegation is that the respondent no. 3 acted *mala fide*. West Bengal Public Distribution System (Maintenance and Control), 2013 provides a provision of appeal under Rule 25. If the petitioner is aggrieved by the impugned order of the Sub-Divisional Controller, Food and Supplies, it is open for him to prefer an appeal before the District Controller, Food and Supplies.

In view of statutory provision of appeal, efficacious relief of the petitioner lies in filing the appeal and constitutional writ jurisdiction has no manner of application in the instant case.

Therefore, the instant writ petition is **dismissed** on contest without cost. However, the petitioner is at liberty to file a statutory appeal before the District Controller and if such appeal is filed, the District Controller shall liberally consider the prayer for condonation of delay in filing the appeal by the petitioner before the said authority.

(Bibek Chaudhuri, J.)