09.02.2023
sayandeep
Sl. No. 06
Ct. No. 05

WPA 757 of 2023

Shibnath Naskar
-Versus-
The State of West Bengal & Ors.

Mr. Ashim Kr. Routh
Ms. Ananya Mondal
.....for the petitioner
Mr. Raja Shah
Mr. Debraj Sahu
..... for the State

The writ petition deserves to be dismissed on several grounds. First, the entire cause of action complained of is of 2005. The preset writ petition has been filed on 9th January, 2023.

The dispute in the writ petition relates to allotment of site for opening an off shop for sale of liquor. The petitioner prays for prohibition on the respondent authorities to give any effect to an order dated 2nd September, 2021 whereby the appellate authority/Additional Chief Secretary refused to interfere with the order passed by the Excise Commissioner rejecting the petitioner's application. The Excise Commissioner in turn has refused to interfere with the order passed by the Collector dated 7th August, 2019 by which the petitioner was held not to be entitled to any compensation or refund of any fee paid by the petitioner.

The short issue before this Court is governed by Rule 9(3) of The West Bengal Excise (Selection of Person for Grant of Licence at New Sites for Retail Sale of Intoxicants) Rules, 2004. Rule 9 provides for manner of selection of the applicants for allotment of site. Rule 9(3) gives the relevant timelines and stipulates that the Collector shall ask the applicant within four working days of selection of the applicants to offer the details of site in the prescribed form within 15 days of receipt of communication.

The petitioner, through learned counsel, submits that the petitioner received the communication on 30.03.2005 from the Collector and submitted the details of the site on 13.04.2005.

Learned counsel appearing for the State authorities submits that the petitioner received the letter from the Collector on the same date when the letter was issued, i.e., 23.03.2005. Hence the petitioner, going by Rule 9(3) of the Rules, should have offered the details of the site on 08.04.2005. The petitioner in stead gave the offer details on 13.04.2005. Counsel seeks to support his submissions by way of letters written by the petitioner showing that the petitioner had indeed received the letter from the Collector on 23.03.2005.

The letters placed before the Court include a letter from the petitioner to the Collector of Excise on 16.02.2009 which contains an unequivocal statement.

The letter hence contains a clear admission that the petitioner received the communication from the Collector on 23.03.2005. The other documents indicate that the petitioner was unable to furnish the offer details of the site due to various reasons including pending litigation.

Since rule 9(3) of the 2004 Rules is clear in the prescription of timelines, this Court is unable to give any relief to the petitioner.

WPA 757 of 2023 is dismissed on that basis but without any order as to costs.

(Moushumi Bhattacharya, J.)