

40 30.01.2023
NB Ct. 39

WPA 1235 of 2023

Chanchala Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Surajit Sen,
Mr. Tapas Singha Roy.
...for the petitioner.

Mr. T. M. Siddiqui,
Ms. Adreeka Pandey.
...for the State.

This is an application under Article 226 of the Constitution of India directing the respondent authorities to review and cancel the order dated 07.01.2023 under Memo No.15/1(7)/SCF(M)/MR/22 and Memo No.15/SCF(M)MR/22 dated 06.01.2023 issued by the Sub-Divisional Controller (F&S) Malda, Sadar.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing for the petitioner submits as follows. The petitioner has applied for FPS dealership on compassionate ground because of the death of her husband. In fact, it was in 1983 that the petitioner's husband was initially issued a licence for purchase, sale and storage of wheat, which was renewed thereafter. The petitioner's husband passed away on 07.09.2014. On 04.11.2021, the petitioner made an application for transfer of MR Dealership license in her name on compassionate ground. In February 2020, the petitioner asked the authority concerned about the procedure of filing application

on compassionate ground. The petitioner filed a further application on compassionate ground for her engagement as an MR dealer on 27.09.2022. This application was received by the authority on 28.09.2022, Yet, there was no response. This prompted the petitioner to move a writ application before this Court in W. P. No.25840 of 2022. By an order dated 06.12.2022, this Court directed the respondent no.3 therein being the District Controller, Food and Supplies, Malda, District-Malda, Pin-732103 to consider the petitioner's representation within eight weeks after giving an opportunity of hearing to the interested parties including the petitioner and thereafter to communicate the decision to the petitioner within a stipulated time. After a notice was given to the petitioner to appear before the concerned authority, the petitioner participated in the hearing. However, the decision was not taken by the respondent no.3 herein i.e., the Sub-Divisional Controller (Food and Supplies) Malda, Baroaritola, Mokdampur, District-Malda. On this ground alone, the impugned order ought to be set aside.

Learned counsel appearing on behalf of the State submits the fact that the respondent no.3 herein was supposed to pass the order was not pointed out by the petitioner during hearing.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition.

It is apparent from the impugned order that the respondent no.3 herein was not one who considered the

petitioner's case and took a decision on the same. This is despite the fact that a clear direction was passed by this Court upon the District Controller (Food and Supplies) Malda to consider the petitioner's case, pass an order and communicate the same. The respondent authorities were clearly aware of the direction passed.

Therefore, the impugned order dated 06.12.2022 cannot be sustained in the eye of law. Accordingly, the same is set aside.

The respondent no.3 herein is directed to consider the petitioner's representation within six weeks from the date of communication of this order after giving an opportunity of hearing to the interested parties including the petitioner and to communicate the decision to the petitioner within two weeks therefrom.

Merits of the case have not been gone into.

In the event a notification is already published for the same area, it shall not be acted upon by the respondents till the respondents take a decision on the representation made by the petitioner.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

