

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Before:

The Hon'ble Mr. Justice Jay Sengupta

W.P.A. No. 1599 of 2023

Dilip Sikdar

Vs.

The State of West Bengal & Ors.

For the Petitioners : Mr. Shounak Mukhopadhyay,
Mr. Roumyadip Saha,
Ms. Rimpa Das,
Mr. Anupam Ghosh.

For the State : Mr. Susovan Sengupta,
Mr. Manas Kumar Sadhu.

Heard on : 03.02.2023

Judgement on : 03.02.2023

Jay Sengupta, J. :

This is an application under Article 226 of the Constitution of India, inter alia, praying for a direction upon the respondents to appoint the petitioner as an authorised MR and FPS dealer in respect of FP Code No.133100200001 at village Daulatpur, Dakshin Dinajpur.

Affidavit of service filed on behalf for the petitioner is taken on

record.

Despite service, no one appears on behalf of the respondent no.5 although the State respondents are present.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner's mother was an MR dealer with FPS Code No. 133100200001. Since January, 2015, the dealer started suffering from illness. On 05.01.2015, she affirmed an affidavit authorising the petitioner and one of the staff to run the shop. This was allowed by the concerned authority. On 21.08.2015, the said MR dealer passed away. However, the petitioner was a little late in applying for dealership on compassionate ground. On 03.02.2016, he did so, but not in proper form. On 11.03.2020, a vacancy notice was published in respect of the dealership. On 11.06.2020, petitioners submitted another application for appointment on compassionate ground, although not in form. It is quite significant that by a letter dated 10.07.2020, the Sub-Divisional Controller (Food and Supplies), Gangarampur wrote to the District Controller (Food and Supplies) Dakshin Dinajpur for an opinion in respect of the delayed prayer for appointment on compassionate ground. However, without waiting for such opinion, the said Sub-Divisional Controller went on to reject the petitioner's application on compassionate appointment by an order dated 27.07.2020. The Sub-divisional Controller who had earlier wrote to the District Controller for an opinion ought to have waited for the same and not decided the issue himself at a subsequent date.

Learned counsel appearing on behalf of the State submits as follows.

First, the petitioner's application was not in form or in time. It is settled law that such application has to be filed within the stipulated time and that the provision is mandatory. Moreover, the prime requirement that such an application is to be filed with no objections from other heirs was not fulfilled. Lastly, the Sub-Divisional Controller decided such issue rightly by a written order. The prior communication to the District Controller is hardly of any consequence.

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

First, it is an admitted position that the purported application made by the petitioner for compassionate appointment was beyond time and not in form. Ordinarily, such time limit is to be scrupulously followed. It also appears that a prime requirement of such application that the same has to be filed with "no objection" from other heirs was also not satisfied.

The petitioner's claim that he was earlier authorised to run the business for her mother when her mother was ill was a matter between him and his mother. Endorsement of the Inspector of Food and Supplies allowing such prayer does not have any legal sanction whatsoever. In any event, such running of business on behalf of the mother during her lifetime is hardly of any significance on the question of a compassionate appointment.

The communication dated 10.07.2020 by the Sub-Divisional Controller to the District Controller would not give any extra advantage to the petitioner. It is the Sub-Divisional Controller (Food and Supplies) Department who is supposed to decide on compassionate appointment.

By a reasoned order dated 27.07.2020, the Sub-Divisional Controller decided the same and I do not find any patent infirmity in the same.

Accordingly, I do not find any merit in this application. Therefore, the same is dismissed.

However, there shall be no order as to costs.

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

(Jay Sengupta, J.)