

WPA 5476 of 2023

Hasanujjaman Ansari

-vs-

The State of West Bengal & ors.

Mr. Mrityunjoy Chatterjee

Ms. Suchismita Chakraborty

...for the petitioner

Mr. Debabrata Saha Roy

Mr. Pingal Bhattacharya

Mr. Subhankar Das

..for the private respondent

Mr. Susovan Sengupta

Mr. Subir Pal

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent nos. 3 and 4 to cancel the engagement of the private respondent as Fair Price Shop dealer in the Village and Post Office- Bhasaipaikar, Police Station- Samserganj, District- Murshidabad and other consequential notices issued.

Learned counsel appearing on behalf of the petitioner submits as follows. The father of the petitioner was a Fair Price Shop dealer in the Village and Post Office- Bhasaipaikar, Police Station- Samserganj, District- Murshidabad. On 01.05.2019, he died leaving behind ten legal heirs including two wives, six sons and two daughters. Yet, after the demise of the said Fair Price Shop dealer, one

of his wives namely the respondent no.6 was appointed as a Fair Price Shop dealer on compassionate ground. No “no objection” was sought from any of the heirs. The petitioner is the son of another wife of the deceased. He raised legitimate objections to the appointment of the private respondent as a dealer. The private respondent was staying far away from the place of business. Yet, the representation of the petitioner was not considered.

Learned counsel appearing on behalf of the State submits as follows. According to Para 20 Sub-para (vi) of the West Bengal Public Distribution System (Maintenance and Control) Order, 2013 for engaging a person on compassionate ground as a dealer, there is no need to obtain “no objection” from the other heirs if the candidate is a spouse of the deceased. Therefore, the petitioner has no right to object to the candidature of the private respondent. In any event, after a thorough inquiry about the eligibility of the petitioner, she had been granted dealership on compassionate ground.

Learned counsel appearing on behalf of the private respondent adopts the submissions of the learned counsel for the State, relies a copy of the Aadhaar Card of the private respondent and further submits as follows. It is clear from the relevant documents including the Aadhaar Card of the private respondent that she is a resident of said Bhasaipaikar. In any event, the petitioner has no *locus standi* to object to the private respondent’s candidature. It is

germane to mention that the other wife of the deceased has not applied for such dealership and has not objected to the candidature of the private respondent.

A copy of the Aadhaar Card is taken on record.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition and the document filed in Court by the private respondent.

From Para 20 Sub-para (vi) of the relevant Control Order, it is apparent that if a spouse prays for compassionate appointment in the event of death of a dealer, then 'no objection' is not required to be obtained from the other legal heirs. Therefore, the present petitioner being son of another wife has no locus to object to the candidature of the private respondent on the ground that 'no objection' was not obtained from the other heirs.

It is submitted on behalf of the State that necessary inquiry was done before the private respondent was appointed as a dealer.

There is a presumption as per Illustration (e) under Section 114 of the Evidence Act that all official acts have been regularly performed. I do not find any material available to doubt the same in the present case. It also appears from the Aadhaar Card submitted on behalf of the private respondents that the private respondent indeed resided in Bhasaipaikar. It is immaterial that she might also have another address at a different place.

In view of the above, there is no merit in the

application.

The same is, accordingly, dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)