

item
36
31-03-2023
Court No. 39
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WPA 5979 of 2023

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharya
Mr. Neil Basu

..... for the petitioner

Mr. Susovan Sengupta
Mr. Subir Pal

...for the State

This is an application under Article 226 of the Constitution of India, thereby praying for a direction upon the respondent authorities to rescind, cancel and/or withdraw the rejection order of the petitioner's candidature for grant of FPS license in place of his deceased parent bearing memo no. 172/RO/SHB/HOW/2022 dated 16.08.2022 issued by the Rationing Officer, Shibpur, Howrah.

Learned counsel appearing on behalf of the petitioner submits as follows. The parents of the petitioner were running fair price shop. In 1995, they made a representation for transfer of license in favour of their son, the present petitioner, on medical ground. In 1997, another said representation was made. On 26.11.2009, the petitioner's mother died. The petitioner's father made a representation on 27.11.2009. However, the father

passed away on 27.09.2020. Thereafter, the petitioner approached the respondents with a prayer for compassionate appointment. He produced all the documents except the occupancy certificate. In the meantime, there was a dispute regarding the property in question and the petitioner was constrained to file a civil suit and an injunction order was passed in favour of the present petitioner. The injunction order was passed by the learned Civil Court before the impugned order. After this, a rent receipt was also issued in respect of the premises in favour of the petitioner by the landlord. In spite of this, the impugned order was passed regarding the property stating that the writ petitioner could not produce any document. The petitioner has preferred an appeal before the Deputy Director. Yet, in the meantime, the respondent authorities issued a vacancy notice for the said dealership. In view of the same, at least vacancy notice needs to be put in abeyance till after the appeal of the petitioner is decided.

Learned counsel for the State submits as follows. There is a specific provision for statutory appeal. The same has been filed. However, upon instructions from the respondent no.5, it is submitted on behalf of the State that till the appeal preferred by the petitioner is disposed of, the vacancy notice issued can be kept in abeyance.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition.

It appears that the petitioner has already preferred an appeal challenging the impugned order and the same is pending. Yet, a vacancy notification has already been issued in respect of dealership in question.

In view of the above, the writ petition is disposed of with a request to the respondent authorities to decide the appeal as expeditiously as possible. During the pendency of the appeal and till two months thereafter, the respondent authorities shall not take any steps in pursuance of the vacancy notice in question.

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.)