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01.05.2023
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Ct 39

WPA 8659 of 2023

Abhisek Mustafi

-vs-

The State of West Bengal & others.

Mr. Sabyasachi Mukherjee

Mr. Bibek Dey

Mr. Debarati Choudhury

Mr. Mukesh Khanna

...for the petitioner

Mr. Debabrata Saha Roy

Mr. Pingal Bhattacharyya

Mr. Subhankar Das

...for the private respondent

Mr. T. M. Siddiqui

Mr. Sirsanya Bandopadhyay

Mr. Arka Kr. Nag

Ms. Sukla Das Chandra

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, particularly the respondent nos. 4 and 7 to take steps for the purpose of redressal of grievances by the petitioner on the basis of his representations dated 22.08.2022 and 31.10.2022.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the only surviving heir of the erstwhile ration shop dealer. He happens to be the grand son of the maternal uncle of the deceased dealer. The respondent authorities erred in accepting a deed of adoption as a valid document for adoption of the private respondent. As such, the private respondent could not have been treated as an heir of the erstwhile dealer. In spite of a direction

passed by the Deputy Director Rationing, Barrackpore on 01.11.2022, the respondent no.7 herein did not consider the case of the petitioner afresh.

Learned counsel appearing on behalf of the State submits as follows. The respondent authorities had accepted the deed as document for adoption. In fact, they were not in a position to decide on its validity. If, at all, the petitioner ought to challenge the same in a civil Court. The petitioner has already been communicated by the respondent authorities that he does not fall within the zone of consideration for compassionate appointment. In spite of this, he again approached the Deputy Director Rationing with a prayer, which is thus redundant.

Learned counsel appearing on behalf of the private respondent submits as follows. The writ petition has been filed by the petitioner after about 4 years from the private respondent getting the appointment on compassionate ground. The petitioner clearly does not fall within the ambit of heirs of the erstwhile dealer who could claim compassionate appointment. In fact, there is a suppression of material as the earlier communications by the respondent authorities about the petitioner's ineligibility was not placed before the Deputy Director of Rationing in the latest representation.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition and the report filed by the State.

It appears that the deed of adoption is not a new document. It is of the year 1986. It is the claim of the private respondent that all had accepted the private respondent as the adopted son of the erstwhile dealer. If any person disputes this, he has to approach a learned Civil Court for declaring the deed as null and void.

In any event, as was communicated by the respondent authorities to the petitioner earlier, the petitioner does not fall within the class of heirs who would be eligible for compassionate appointment of the erstwhile dealer. Therefore, it will be a futile exercise to again direct the respondent no.7 to comply with the respondent no.4's direction for dealing with the issue all over again.

In view of the above and in the interest of justice, I do not find any merit in this writ petition.

Accordingly, the same is 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.)