

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

WPA 8258 of 2015

Bhriguram Mahato

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Rudanil De
: Ms. Aiswaryya Mukherjee

For the State : Mr. Sirsanya Bandyopadhyay
Mr. Arka Kumar Nag

For the respondent no.7 : Mr. S.K. Acharya
Mr. S.B. Mukherjee

Heard lastly on : 23.03.2023

Judgement on : 23.03.2023

Jay Sengupta, J. :

This is an application under Article 226 of the Constitution of India challenging the memo no. 1262 (6)/SC/FS dated 02.03.2015 issued by the Sub-Divisional Controller, Food and Supplies, Purulia.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner's father was an MR dealer as well as an S.K. Oil dealer. The petitioner's father died on 05.05.2000 at the age of 75 years.

In 2007 the petitioner applied for appointment in his place on compassionate ground. The petitioner again filed an application for such purpose on 27.12.2012. In fact, the villagers of Jargo village filed a mass petition in this regard. On 19.2.2013 the Sthayee Samiti of Jhalda-I Panchayat Samiti adopted a resolution for giving M.R. Dealership to the present petitioner. On 18.06.2014 the petitioner preferred a writ petition being WPA 17733 of 2014 for the inaction of the respondent authority. By an order dated 14.07.2014, this Court directed the Sub-Divisional Controller, Food and Supplies to consider the application of the petitioner for appointment on compassionate ground in respect of the fair price shop/S.K. Oil shop for village Jargo in the event no vacancy had been declared till then. By an order dated 07.03.2015, the Sub-Divisional Controller, Food and Supplies illegally rejected the prayer of the petitioner. The impugned order is not a reasoned one. It simply says that another person had been appointed as a dealer in place of the petitioner's father.

Learned counsel representing the private respondent submits that he has been running the dealership since 1984. He has been appointed since the petitioner's father ceased to be an MR and S.K. Oil Dealer in that area in 1982 and 1983. So, there is no question of considering the petitioner's application for compassionate appointment, that too made seven years after the death of his father.

The written note of argument filed on behalf of the private respondent is kept on record.

Learned counsel for the State relies on a report, which is taken on record, and submits as follows. As has been rightly indicated in the impugned order, the petitioner's father had ceased to be a dealer of MR shop and kerosene oil from the years 1982 and 1983. In fact, he had to be show-caused by the concerned authorities in 1982 for failing to produce stock register and other relevant register during inspection. Subsequently, the private respondent was appointed as MR dealer in the said village vide memo dated 09.08.1984. So, there was no vacancy whatsoever in respect of the dealership even on the date of passing of the earlier order by this Court. Unfortunately, the correct facts were not pointed out to this Court in the earlier writ petition. Moreover, the application for compassionate appointment was made merely seven years after the demise of the petitioner's father. Therefore, there is no illegality in the impugned order and the writ petitioner ought to be dismissed with cost.

I have heard the learned counsels appearing for the parties and have perused the writ petition, the affidavits the report filed by the State and the written note of the private respondent.

It appears that the petitioner's father ceased to be an MR Dealer and SR Oil Dealer since 1983. Thereafter, the private respondent herein was appointed as a dealer. Therefore, there was no question of there being a

vacancy in this regard at the time the petitioner applied for appointment on compassionate ground.

Unfortunately, the above facts were not placed before this Court at the time of hearing of the earlier writ petition.

Therefore, I do not find any infirmity in the impugned order passed by the concerned respondent.

Accordingly, the writ petition is dismissed. This is a case where the petitioner had filed a writ petition without there being any reasonable basis. Moreover, relevant facts were not placed before this Court. Therefore, the petitioner shall pay a cost of Rs. 10,000/- within a fortnight from this date and deposit the same with the State Legal Services Authority. A receipt for such payment shall be filed with the Registrar General of this Court within a week therefrom.

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.)