

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 14463 of 2023

**Sibani Sadhukhan & Ors.
Vs.
The State of West Bengal & Ors.**

For the petitioners	:	Mr. Dilip Kumar Samanta, Mr. Debapriya Samanta
For the State	:	Mr. Somnath Ganguli, AGP Ms. Kalpita Paul
Heard on	:	28.06.2023, 19.07.2023
Judgement on	:	19.07.2023.

Bibek Chaudhuri, J.

One Rabindra Nath Sadhukhan was a dealer of a fair price shop. He died on 23rd February, 2022 leaving behind three daughters as her legal heirs and successors. The said daughters filed an application for dealership on compassionate ground before the competent authority. One Niva Sadhukhan, claiming to be the second wife of the said Rabindra Nath Sadhukhan, since deceased filed an objection against the prayer of the petitioners. The State respondents failed to take any decision with regard to the application filed by the daughters of

Rabindra Nath Sadhukhan for grant of license on compassionate ground. The matter was taken up on 28th June, 2023 when a direction was issued upon the learned Advocate for the State to file a report to apprise this Court as to whether Niva Sadhukhan was the lawfully married wife of the said Rabindra Nath Sadhukhan, since deceased. The respondent No.6 has filed a report in the form of affidavit stating, *inter alia*, that the said Rabindra Nath Sadhukhan instituted matrimonial suit being No.663 of 1993 in the Court of the learned District Judge at Barasat, North 24-Parganas and the said suit was decreed ex parte and decree for dissolution of marriage between Rabindra Nath Sadhukhan and Mira Sadhukhan was passed on 29th July, 1994. After the suit being decreed, the said Rabindra Nath Sadhukhan married to Niva Rani Dutta (Sadhukhan) under the Special Marriage Act on 5th December, 1994. On perusal of the said two documents, prima facie I do not find any illegality in the marriage between Rabindra Nath Sadhukhan and Niva Sadhukhan.

At the same time, this Court holds that even if the marriage with Mira Sadhukhan was dissolved by decree of divorce, the daughters of the said first marriage cannot be deprived of their right of inheritance etc. as per their share. Therefore, this Court is of the opinion that the petitioners' application for granting licence of the FPS dealership of their father Rabindra Nath Sadhukhan in favour of them

is legal and valid. Similarly, Niva Sadhukhan has right to raise objection being the lawfully married second wife of Rabindra Nath Sadhukhan.

In view of such circumstances, the instant writ petition is disposed of directing the respondent No.6 to consider both the applications filed by the petitioners and the written objection filed by the respondent No.7 together and pass a reasoned order within 60 days from the date of communication of this order after giving opportunity to the parties of being heard directly by them or their authorized representatives.

With the above direction, the instant writ petition is disposed of.

There shall be, however, no order as to costs.

(Bibek Chaudhuri, J.)

***Mithun De.
A.R. (Ct).
SI No.04.***