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13.02.2023
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Ct 39

WPA 16221 of 2022
CAN 1 of 2022

Shrimati Bhaumik
-vs-
The State of West Bengal & ors.

Mr. Debasis Sur
Mr. Himadri Shekhar Paul
...for the petitioner
Mr. Sirsanya Banodpadhyay
Mr. Arka Kr. Nag
...for the State
Mr. Tanoy Chakraborty
Mr. Chhandak Dutta
...for respondent no.3

This is an application under Article 226 of the Constitution of India praying for a direction upon the concerned respondent authorities not to give effect to the notice dated 14.07.2022 issued by the respondent authorities in connection with asking for fresh no objection certificate for other eligible family members including the first wife of the deceased MR dealer for engagement on compassionate ground.

Learned counsel appearing on behalf of the petitioner submits as follows. Admittedly the petitioner is the second wife of the deceased M.R. dealer. On 04.05.2021, the petitioner's husband passed away. He was an M.R. dealer. Thereafter, the petitioner, her son as well as the first wife of the petitioner had separately applied for engagement as a dealer on compassionate ground. A letter dated 14.07.2022 was sent by the respondent authorities to the son of the

petitioner requiring no objection certificates from other eligible members of the family in respect of compassionate appointment in the event the petitioner wanted to have his application for compassionate appointment processed. Since the petitioner had been able to obtain the death certificate of the deceased M.R. dealer, she and her heirs should have the first right to the M.R. dealership.

Learned counsel appearing on behalf of the private respondent submits as follows. As was rightly been indicated by the concerned authorities, the second wife of the deceased dealer was not eligible for compassionate appointment. However, if his son wanted to be engaged as a dealer on compassionate ground, then he had to produce no objection certificates from the other eligible heirs of the deceased dealer. In fact, a process has already started for engagement of the private respondent as a dealer on compassionate ground because there was no requirement to produce any no objection certificates for her as the first spouse of the dealer was applying for dealership on compassionate ground. Reference is made to the last proviso to Clause 20 Sub-clause (VI) of the Control Order.

Learned counsel appearing on behalf of the State submits that the petitioner being admittedly the second wife of the deceased M.R. dealer has not right to claim dealership on the ground of compassionate appointment. In fact, she has no locus to sustain the writ petition. It also appears that the application submitted by the petitioner was not in proper

form and was only in plain paper.

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

Admittedly, the petitioner is the second wife of the deceased M.R. dealer. Therefore, the respondent authorities rightly held that she was not eligible to claim engagement as a dealer on compassionate ground. In the event, her son wishes to apply such dealership on compassionate ground, then no objection was to be obtained from the other eligible heirs of the deceased M.R. dealer.

The private respondent being the first wife of the deceased M.R. dealer can apply for engagement as a dealer on compassionate ground without having to produce any “no objection” certificate from any other heirs.

Therefore, I do not find any merit in this application.

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.)