

Form J(2)

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

Present :

The Hon'ble Justice Bibek Chaudhuri

WPA 19694 of 2023

Soma Roy

Vs.

State of West Bengal & Ors.

For the petitioner : **Mr. Ram Anand Agarwala,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee,
Ms. Sonam Ray**

For the State : **Mr. T.M.Siddiqui,
Mrs. Amrita Panja Moulick**

Judgement on : **28.08.2023.**

Bibek Chaudhuri, J.

Report submitted on behalf of the State respondents be taken on record.

The WBPDS (Maintenance and Control), 2013 defines family member(s) in Clause 2(m) in the following words:-

(m) "family member(s)" means –

(i) spouse; or

(ii) parents; or

- (iii) son (including son legally adopted before death or incapacitation); or
- (iv) widow or pre-deceased son; or
- (v) daughter (including daughter legally adopted before death or incapacitation, divorced daughter and widowed daughter),

who is wholly dependent on the dealer or distributor at the time of death.

Keeping in mind the definition of family member under 2013 Control Order, let me state in a nutshell the case of the petitioner. One Maya Rani Roy was a licensee in respect of FPS Dealership. The said Maya Rani died on 30th November, 2020 leaving behind widow, one son and one married daughter of her pre-deceased son and a married daughter. The petitioner is the widow of the said pre-deceased son of Maya Rani. She filed an application for grant of FPS licence on compassionate ground. Subsequently, being required by the respondent authority, mainly, Sub-Divisional Control, Food and Supplies Department, she submitted her application in prescribed form as well as all other requisite documents which are necessary to grant licence on compassionate ground. However, the Sub-Divisional Controller did not wish to grant licence to the petitioner on

compassionate ground on want of certain documents. It is submitted by the learned Advocate for the petitioner that the Sub-Divisional Controller wants no objection certificate of married daughter of the petitioner as well as the married daughter of original licence holder namely Maya Rani Roy, since deceased. It is contended that at the time of death, neither the married daughter of the petitioner nor the married daughter of the original licensee Maya Rani were dependent upon Maya Rani as they were given marriage and they were dependent upon their husband. Therefore, they are not family members within the meaning of WBPDS (Maintenance and Control) Order, 2013.

Learned Advocate on behalf of the State respondents has submitted a report stating, *inter alia*, that both the son and the married daughter of the petitioner separately prayed for grant of licence in their names. The married daughter of Maya Rani also filed an application for FPS dealership on the strength of a will allegedly executed by Maya Rani.

It is needless to say that a dealership of FPS shop cannot be bequeath by virtue of a will. Therefore, the Sub-Divisional Controller, Food and Supplies Department can very well leave aside the claim of the married daughter of Maya Rani who was

given marriage during her lifetime and she was not dependent upon Maya Rani.

It is further contended by the learned Advocate for the State respondents that the petitioner filed application after the statutory period of limitation. This submission would have been considered if the respondents outright rejected such application on the point of limitation. The Sub-Divisional Controller did not reject the application of the petitioner on the ground that the said application was filed after the expiry of the period of limitation. On the other hand, the said application was entertained and time to time different documents were sought for from the petitioner. It is learnt from the learned Advocate for the petitioner that the son of the petitioner who is dependent upon the widow of the pre-deceased son of Maya Rani has already filed his no objection certificate stating, inter alia, that he has no objection if the licence is granted in favour of her mother. The married daughter of the petitioner is not dependent upon her. She does not within the definition of family members under Clause 2(m) of the WBPDS (Maintenance and Control) Order, 2013.

In view of the above discussion, the Sub-Divisional Controller, Food and Supplies Department, Ranaghat,

respondent No.4 herein, is directed to dispose of the petitioner's application within 30 days from the date of the communication of this order on the basis of the documents filed by the petitioner and her son.

The parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)

***Mithun
A.R. (Ct).
SI No.06.***