

Form J(2)

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

Present :

The Hon'ble Justice Bibek Chaudhuri

WPA 22030 of 2023

Swapan Barman

Vs.

The State of West Bengal & Ors.

For the petitioner : Md. Zeeshanuz Zaman

**For the State : Mr. Supratim Dhar,
Mr. Amrit Lal Chatterjee**

Judgement on : 18.09.2023.

Bibek Chaudhuri, J.

The petitioner is one of the legal heirs of one Baikuntha Nath Bar @ Baikuntha Nath Barman who was a MR dealer in respect of fair price shop at village Maheshpur within Police Station Basanti in the district of South-24-Parganas. It is the case of the petitioner that the said Baikuntha Nath Barman died in 2004. After the death of the original licence holder, according to the provision of Clause 20(vii) of the WBPDS (Maintenance and Control) Order, 2013, any one of the legal heirs is eligible to be appointed as MR dealer on compassionate ground. However, the petitioner could not file any application for such compassionate appointment because of the dispute between the legal heirs of the deceased original MR dealer.

It is the case of the petitioner that he found that after the death of his father, one of his brothers being the private respondent No.8 has been running the said dealership. He filed one RTI application, the reply of which was given in writing on 4th August, 2023 by the State Public Information Officer and Sub-Divisional Controller (Food and Supplies), Canning, South 24-Parganas, stating, *inter alia*, that the MR dealership of late Baikuntha Nath Bar has been transferred to the private respondent and he is holding the MR dealership having licence No.24P(S)-CNG-BSNT-134302000047).

It is the case of the petitioner that in order to get compassionate appointment, private respondent required to submit no objection certificate of other heirs. However, the private respondent did not take no objection certificate from the petitioner and petitioner also did not issue such no objection certificate. After getting the reply under RTI Act, the petitioner made a representation assailing the legality of the grant of licence in favour of the private respondent but it was not acceded by the State respondent. So is the instant writ.

It is submitted by the learned Advocate for the State respondents that the original MR dealer, namely, Baikuntha Bar during his lifetime in the year 1988 issued a letter to the Food and Supplies Authority requesting them to change the licence in the name

of the private respondent due to his medical incapacitation. The authority has changed the licence in the name of the private respondent accordingly.

Having heard the learned Advocate for the parties it is pertinent to mention that 2013 Control Order is explicit on the point that in the case of medical incapacitation of the original MR dealer, he can pray for transferring of dealership in the name of one of his family members. In the instant case, private respondent is one of the sons of the original MR dealer. On the basis of such application filed by the original MR dealer, since deceased, the licence was transferred in the name of the private respondent.

In view of such circumstances, I do not find any ground to admit the instant writ petition, and, accordingly writ petition is dismissed.

(Bibek Chaudhuri, J.)

***Mithun.
A.R. (Ct).
SI No.13.***