

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

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

WPA 22628 of 2022

**Smt. Saraswati Mitra
Vs.
The State of West Bengal & Ors.**

Mr. Sadhan Kumar Halder
Mr. Ashok Kumarn Sarkar
..for the petitioner

Mr. Abhijit Basu
Mr. Arghya Kamal Das
..for the Respondent

Item No.22

Heard & Judgment on: 13.06.2023

Bibek Chaudhuri, J.

The case of the petitioner in short is that the petitioner is the wife of one Nimai Mitra, since deceased. The said Nimai Mitra constituted the partnership firm with Biswajit Kundu, respondent No.6 herein and used to run fair price shop obtaining licence from the

authority. After the death of Nimai Mitra his wife, the petitioner herein wants to be inducted as a partner in place of her husband. Hearing was conducted by the Sub-Divisional Controller and the private respondent No.6 clearly stated that he does not want to carry on the partnership business with the petitioner because the accounts of the partnership business has not been settled as yet.

In view of such circumstances, this Court cannot pass any order directing the Sub-Divisional Controller to induct the name of the petitioner in the partnership deed because a partnership business is a creature of contract between two and more persons to run a business in partnership. In the instant writ petition the petitioner has prayed for consideration of her representation dated 12th September, 2022. If the dealership of fair price shop was issued in the name of the partnership firm, the present petitioner cannot be permitted to run the said fair price shop as an individual licensee. Considering such circumstances, this Court is of the view that the representation submitted by the petitioner on 12th September, 2022 should be disposed of by the respondent Nos. 4 and 5 after giving opportunity to the petitioner and the private respondent No.6 of being heard.

In view of such circumstances, the instant writ petition is disposed of directing the respondent Nos. 4 and 5 to dispose of the representation dated 12th September, 2022 giving opportunity to both

the petitioner and the private respondent No.6 of hearing within 60 days from the date of communication of the order.

(Bibek Chaudhuri, J.)