

Form J(2)

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

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

WPA 26482 of 2022

**Rafikul Islam
Vs.
The State of West Bengal & Ors.**

Mr. Pratip Kumar Chatterjee
..for the petitioner

Mr. D. Banerjee
..for the respondent No.7 and 8

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
..for the State

Item No.11

Heard & Judgment on: 08.08.2023

Bibek Chaudhuri, J.

One Mabia Bewa, respondent No.8 herein was a licensee in respect of a fair price shop at village Saralpur within P.S. Ranitala, in the district of Murshidabad. The petitioner is one of the sons of the said respondent No.8. It is the case of the petitioner that due to

medical incapacitation the respondent No.8 wanted to transfer her licence of the said fair price shop in the name of the petitioner and on 5th August, 2022 she had sworn an affidavit stating, inter alia, that she wanted to transfer the licence in the name of the petitioner. The petitioner made a formal application on 8th August, 2022 along with an affidavit duly sworn by him in prescribed format. The said application has not been disposed of or the petitioner did not receive any communication from the State respondents as to the fate of his application. Subsequently, the petitioner came to know that the private respondent No.7 had confined his mother in his residence and putting pressure upon her to issue a certificate of grant of licence in favour of the respondent No.7 changing her previous affidavit dated 5th August, 2022.

Though the petitioner was not aware as to whether the respondent No.7 had filed any application for grant of licence on compassionate ground in favour of the respondent No.7, he came to know from the website of the Food & Supplies Department that the licence was changed in the name of the respondent No.7. The petitioner immediately made a representation before the concerned authority but the said representation was also unheard.

The parties have entered appearance. A report in the form of affidavit has been filed on behalf of the State respondents.

Respondent Nos. 7 and 8 have also filed an affidavit-in-opposition. The petitioner in turn filed affidavit-in-reply against such opposition.

It appears from the order dated 4th January, 2023 that a co-ordinate Bench directed the Sub-Divisional Controller, Food & Supplies Department of the concerned jurisdiction to examine the original licensee. The original licensee was examined and her examination was videographed. When it was informed to the earlier Bench having determination, the Hon'ble Jay Sengupta, J., directed the State Respondents to produce the videography in a pen drive and the record of the case which learned advocate for the State has filed in open Court. It is ascertained from the said videography that the original licensee was examined by the Sub-Divisional Controller, Food & Supplies Department and she clearly stated that she wants to transfer her licence in favour of the respondent No.7. It appears from the office record that on the basis of the application filed by the petitioner the Sub-Divisional Controller directed the petitioner to appear before him along with the original licensee i.e., his mother on 2nd September, 2022. However, he prayed for an adjournment of hearing on 2nd September, 2022 due to the illness of his mother.

Thus, it is contended on behalf of the petitioner that he was not given opportunity of hearing before granting licence in favour of respondent No.7.

On perusal of the office record, I find that the petitioner was given opportunity more than once to appear before the Sub-Divisional Controller along with his mother. He failed to take her mother before the Sub-Divisional Controller. On the other hand, respondent No.7 took the original licensee and the Sub-Divisional Controller examined her. On due consideration of examination of the original licensee, the licence was granted in favour of the respondent No.7. On perusal of the office record I do not find any arbitrariness or mala fide on the part of the State respondent in granting licence in favour of the respondent No.7. Therefore, the writ petition being devoid of any merit is **dismissed** on contest.

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

(Bibek Chaudhuri, J.)