

Form No. J(2)

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

Present:

**The Hon'ble Justice Jay Sengupta.**

**W.P.A 27240 of 2022**

**Rina Roy**  
**Vs.**  
**State of West Bengal and others.**

For the Petitioners : Mr. Debabrata Saha Roy  
Mr. Subhankar Das

For the State : Mr. Susovan Sengupta

For the respondent no. 6, 7 & 8 : Mr. Pingal Bhattacharyya

Heard on : 04.01.2023

Judgment on : 04.01.2023

**The Court:**

This is an application under Article 226 of the Constitution of India praying for direction upon the respondents to grant dealership licence in favour of the petitioner on compassionate ground under died-in-harness category in place of her deceased husband at village & P.O.:

Dakshin Khayerbari, P. S. Dhupguri under Jalpaiguri Sadar Sub-Division in the District of Jalpaiguri.

Learned counsel appearing on behalf of the petitioner submits as follows. The father of the petitioner was appointed as Fair Price Shop cum Kerosene Oil at village & P.O.: Dakshin Khayerbari, P. S. Dhupguri under Jalpaiguri Sadar Sub- Division in the District of Jalpaiguri. On 21.05.2013, the petitioner's father died. The mother of the petitioner applied for the said dealership license on compassionate ground on 08.04.2014. The mother passed away on 06.02.2020. Immediately thereafter and within time, the petitioner herself made a representation praying for dealership on compassionate ground on 24.02.2020. However, at that time, the petitioner's sisters did not grant no objection certificate in her favour. The application remains pending. Subsequently, the petitioner along with the proforma respondents being the married sisters of the present petitioner made an application applied for dealership on compassionate ground on 05.03.2020. However, an engagement letter of the deceased mother in respect of her prior application was issued by the concerned authorities on 15.07.2020. On 07.07.2022, the Deputy Director (License), Dte. of DDP & S rejected the prayer made by the partnership firm constituted by the petitioner and his sisters on the ground that the married sisters were not dependents of the deceased father. Thereafter, on 02.08.2022, the petitioner again made a representation

that he may be granted the license on compassionate ground. It is the case of the petitioner that the petitioner had made an application in time. Therefore, the question of non-applying for dealership on the ground of compassionate appointment in time does not arise. The petitioner is otherwise entitled to such dealership and the married sisters are agreeable to issue 'no objection' certificate.

Learned counsel appearing on behalf of the private respondents submits that his client would issue respective no objection certificates in case the petitioner is granted dealership in question on compassionate ground.

Learned counsel for the State submits as follows. It is true that the license was approved in favour of the mother of the petitioner after her death. The petitioner again made an application for appointment on compassionate ground. However, the same was not made in time. The first application made by the petitioner immediately after the death of his father had merged into the application made by the petitioner and her sisters jointly and the latter was rejected subsequently. Therefore, the subsequent application made by the petitioner is beyond time.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition.

It appears that the petitioner had earlier made an application for appointment of compassionate ground after the demise of his father,

within time. However, the same was not accompanied with 'no objection' from the other heirs. Besides, there is nothing on record to show that such earlier application has ever been rejected.

It is a peculiar case where license was approved in favour of the wife of the original dealer after a lapse of 7 years, that too after the demise of the said applicant.

Be that as it may, after the joint application of the petitioner and her sisters was rejected, another application was made for appointment on compassionate ground by the petitioner. The same is pending consideration. The private respondents appear to be willing to give 'no objection' in respect of the same.

In view of the same and in the interest of justice, the respondent no.3 is directed to consider the representations of the petitioner for engagement as a dealer for appointment on compassionate ground after granting an opportunity of hearing to the interested parties including the petitioner, within a period of six weeks from the date of communication of this order and to communicate the result of the same to the petitioner within a fortnight thereafter.

Till the time the decision is taken and intimated to the petitioner, no vacancy should be declared in respect of the dealership in question.

With these observations, the writ petition is disposed of.

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.)**