

31-08-2023
Court No.2
Sh/30.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 2202 of 2022

**Mrs. Parbati Devi Agarwala & Anr.
-Vs-
The State of West Bengal & Ors**

Mr. Shamik Chatterjee,
Mr. Amit Bikram Mahata,
Mr. Aditya Bikram Mahata
..For the Petitioners.
Mr. Subir Kumar Saha, AGP,
Mr. Pretom Das.
For the State.

Affidavit of service filed today in Court is taken on record.

The petitioner no.1 is the widow of one Bodulal Agarwala who died on March 3, 1997 as would be evident from the death **Certificate** annexed **at page 21** to the writ petition. The Forest Licence was issued in the name of Badulal since deceased. After the demise of the said deceased the licence automatically ceased to have any existence and/or expired. In this regard a communication dated September 14, 2021 was addressed to the said deceased by the respondent no.3, **Annexure P-4 at page 22 to the writ petition.** This communication was addressed at least after around nearly four years from the death of the original licence holder.

By a communication dated October 9, 2001 Annexure **P-8 at page 28 to the writ petition**, the first petitioner informed the fact of death of the

original licence holder to the respondent no.3 and requested to grant the forest licence in her favour.

The petitioners contend that no step was taken on the said representation of the first petitioner dated October 9, 2001. The first petitioner then suddenly woke up and made representations dated **March 23, 2022 (Annexure P-6 at page 24 to the writ petition) and representation dated June 3, 2022 (Annexure P-7 at page 26 to the writ petition).**

The first petitioner deposited a sum of Rs.3000/- on April 13, 2022 on account of necessary enlistment fee for **Provisional Certificate of Trade (Annexure P-9 at page 29 to the writ petition).**

Mr. Samik Chatterjee, learned counsel appearing for the petitioners submits that since 2001 the representation of the petitioner no.1 was kept pending and also the representations made in 2022 are also kept pending though the petitioner has paid the necessary enlistment fee for **Provisional certificate of Trade.** He submits that, this is a fit case where this Court should intervene directing issuance of the Forest Licence in favour of the petitioner. The second petitioner is the son of the first petitioner and the deceased original licence holder. Kinkar Roy is the son-in-law of the deceased original licence holder.

Mr. Subir Kumar Saha, learned AGP appears for the respondents. He submits that the licence of the original licence holder being the husband of the first petitioner had expired long back in or about 2001. In any event, when the original licence holder died in

1997 the licence automatically ceased to have exist. The first representation of 2001 submitted by the first petitioner and thereafter in 2022, after 21 years, the petitioners suddenly woke up and claimed the forest licence. The writ petitioner has been filed in the year 2022. This is a grossly delayed writ petition. He submits that the writ petition should be dismissed forthwith.

After considering the rival contentions of the parties and after considering the materials on record, this Court is of the firm view that with the death of the original licence holder being the deceased husband of the first petitioner in the year 1997, the Forest Licence granted in his favour stood automatically expired and/or ceased to have exist. In 2001 the first petitioner being the widow submitted representation for obtaining such Forest Licence in her name. It is true that the petitioner contended that no step was taken at the end of the State Authority on such representation submitted in 2001, it is equally true that the petitioners slept over on her alleged claim for obtaining licence, if at all she was eligible to the same, for about 21 yeas and then suddenly woke up in 2022 and submitted representations on March 23, 2022 and June 3, 2022 as narrated above.

The settled principle is that delay defeats equity. This Court in exercise of its power in high prerogative writ jurisdiction in exercise of his equitable jurisdiction should not entertain such a delayed claim by way of a delayed writ petition. The delay is inordinate.

Inasmuch as the widow of the original licence holder as of right could not have and cannot claim such Forest Licence.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

In view of the above discussions and reasons, this Court finds that, there is no merit in the writ petition. The writ petition is totally misconceived and devoid of any merit.

Resultantly, this writ petition being **WPA 2202 of 2022 stands dismissed** without any order as to costs.

(ANIRUDDHA ROY,J.)

