

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

104

CWP-19161 of 2023

Date of Decision:31.08.2023

Malkit Singh

....Petitioner

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vijay K. Jindal, Advocate,
for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 17.05.2023 (Annexure P-10) vide which an application submitted by the petitioner for transfer of the fair price shop licence which had initially been issued to petitioner's grandfather who had expired, has been declined.
2. Learned counsel referred to Clause 9 (10) of Punjab Targeted Public Distribution System (Licensing and Control Order) 2016 (Annexure P-11) to contend that a licence can be duly transferred upon death of a licensee to any eligible member of his family. Said Clause 9(10) reads as under:-

“The State Government shall have right to transfer the license to any eligible person from the family of the licensee in case of demise of the licensee or in case of 100% percent disability of the licensee.”

3. Learned counsel has further drawn the attention of this Court to policy dated

15.06.2016 (Annexure P-12) wherein the term “family” has been defined in Clause A(6) as under:-

“6) Definition of family

Husband, wife and their dependent children.

For opening new ration depot, one family is entitled to one ration depot only.

However, after the death of depot holder on account of compassionate circumstances, the depot can be transferred in the name of mother, father, sister, brother, daughter-in-law, grandsons, grand-daughters, provided the applicant is dependent upon the depot holder and fulfils other conditions as per policy.”

4. It has been submitted that the petitioner is grand-son of the licensee Sarwan Singh and since none else in the family has come forward to stake claim in the said fair price shop, the impugned order cannot sustain and that the fair price shop ought to have been transferred in the name of the petitioner.
5. This Court has considered the aforesaid submissions.
6. A perusal of Clause 9(10) of the order of the Government of Punjab, dated 22.04.2016 (Annexure P-11) indicates that State, in the case of death of the licensee is competent to transfer a licence to any other eligible person from the family upon the death of such licensee. However, there is nothing to suggest that a member of the family has an indefeasible right in the same.
7. A perusal of the relevant extract from the policy i.e. Clause (A)6 would indicate that the petitioner would fall within the term “family”. However, a perusal of the impugned order (Annexure P-10) would indicate that upon inquiry it was found that the petitioner was having land in his name and that his financial condition was good and that he was not dependent on anyone. The same would indicate that the present case is not a case of hardship so as to justify extension of some benefits on

compassionate grounds.

8. Still further, the petitioner was found to be aged 50 years and 6 months whereas the policy mandates that any licence holder should be between 18 to 50 years. Though the learned counsel for the petitioner vehemently argued that the said limits of age would not be applicable to the transferee in case of death of the licence holder, but this Court is unable to subscribe to the aforesaid contention inasmuch as Clause 6 clearly mandates that even in case of compassionate transfer, the transferee should fulfill all other conditions as per the policy. Clause A(4) of said policy prescribes the age to be between 18-50 years.
9. Finding no merit in the case, the present petition is dismissed.

(GURVINDER SINGH GILL)
JUDGE

August 31, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No