

20.02.2024

Ct. no.654

Sl. No.6

sn

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

WPA 2328 of 2024

M/s. Saha Enterprise & Ors.

Vs.

State of West Bengal & Ors.

Mr. Debabrata Saha Roy

Mr. Subhankar Das

..for the petitioners

Mr. Suman Sengupta

Ms. Amrita Panja Moulick

Mr. Sanata Panja

..for the State

Mr. Shivaji Kumar Das

..for the respondent no.6

Affidavit of service filed by the petitioner is taken on record.

This is an application under Article 226 of the Constitution of India filed by the petitioners for a direction upon the Director, District Distribution Procurement & Supply, Food & Supply Department, Government of West Bengal, being the respondent no.3 to adjust and rectify the excess amount of food grains appearing against the new ID(WB3361193521) of the petitioners.

The brief fact of the case is that the petitioner nos. 2 & 3 are the partners of the firm under name and style “M/s. Saha Enterprise” (the petitioner no.1 herein). Previously the partnership business was carried by the petitioner no.2 Pradip Saha along with his brother Bhabesh Saha (since deceased) under FPS licence no.

64/CH-M&C/06. Under the West Bengal Public Distribution System (Maintenance & Control Order) 2013, a fresh licence was issued in favour of the said partnership being Licence No. NAD-KYLN-CHKD-133601200136 (FPS no. 133601200136). After demise of Bhabesh Saha, his wife, Jayanti Saha, the petitioner no.3 herein, was incorporated in the said partnership and upon application been made a new licence was granted on 10.03.2022 in favour of the petitioner nos. 2 & 3 for running the business under name and style "*M/s. Saha Enterprise*" being Licence No. NAD-KYL- WB3361193521-23 (FPS No.WB3361193521). However, after grant of such licence, allotment and delivery of food grains, both were made through old I.D.no.133601200136 up to the month of May, 2022. On and from June, 2022, allotment was made in new I.D.no.(WB3361193521) till 7th July, 2022 for a period of two months but the delivery has been made through old I.D, since new EPos machine was not provided till 7th July, 2022. On and from 8th July, 2022, allotment and delivery both were made through new I.D. Since delivery of foodgrains were made for the period from 2nd June, 2022 to 7th July, 22 through old I.D. there is no reflection for delivery of food grains for such period in the new I.D. Accordingly, excess quantum of food grains appears in the new I.D. due to non-adjustment of stocks from the old I.D. The petitioners made a representation before the Sub-Divisional Controller, Food & Supplies,

Kalyani, Nadia, respondent no.5 on 15th September, 2022 and 21st April, 2023 as well as to the Director, District Distribution Procurement & Supply, Food & Supply Department, Government of West Bengal, respondent no.3. However, such adjustment has not yet been considered. Hence, this writ petition.

Mr. Debabrata Saha Roy, learned advocate for the petitioner submits that the excess quantum of food grains appearing in the new I.D. is squarely due to non-adjustment of stock of food grains from old I.D. to new I.D. Although such fact was brought to the notice of the concerned authorities but no step has yet been taken for adjustment. He seeks that the petitioners be given an opportunity to make a fresh representation before the concerned authorities for redressal of their grievance made in the writ petition.

Mr. Suman Sengupta, learned advocate for the State respondents also submits that the authority concerned be directed to consider the grievance of the petitioners upon submission of representation by the petitioners for such redressal.

Mr. Shivaji Kumar Das, learned advocate for the respondent no.6 also makes similar submission.

Upon hearing the learned advocates for respective parties and considering the materials on record, the petitioners are directed to submit a fresh representation before the Director, District Distribution Procurement &

Supply, Food & Supply Department, Government of West Bengal, being the respondent no.3 within a period of 15 days from date of this order. Upon such representation being made, the Director, District Distribution Procurement & Supply, Food & Supply Department, Government of West Bengal, respondent no.3, shall dispose of such representation after giving an opportunity of hearing to all concerned parties including the petitioners in accordance with law within a period of two months from the date of submission of such representation.

The result of disposal shall be communicated to the petitioners within a week thereof.

The learned advocate on record for the petitioners is directed to serve a copy of this order upon the Director, District Distribution Procurement & Supply, Food & Supply Department, Government of West Bengal, respondent no.3.

Since no affidavit has been invited, allegation contained in the writ petition shall be deemed not to have been admitted.

It is made clear that the Court has not gone into the merits of the case.

With the above directions, this writ petition being **WPA 2328 of 2024** stands disposed of along with all connected applications, if any.

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

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)