

26.02.2024
Ct. 654
D/L 4
ab

WPA 4354 of 2024

**Dipti Rani Majumdar
-Vs-
State of West Bengal & Ors.**

Mr. Syed E. Huda,
Mr. Sk. Aptabuddin,
Mr. Nabeela Akbar

... for the petitioner

Mr. Sirsanya Bandopadhyay,
Mr. Ritesh Kumar Ganguly

... for the State

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

This writ petition has been filed by the petitioner
under Article 226 of the Constitution of India for
consideration of her representation dated 3rd July, 2023
by the respondent no. 2, the Commissioner,
Department of Food & Supplies herein for grant of FPS
dealership licence on compassionate ground.

The brief fact of the case is that the petitioner's
husband namely, Pralay Shankar Majumder since
deceased, was a licence holder in respect of a Fair Price
Shop at Village-Birajnagar, P.O. Bijaynagar, P.S. Gosala
under Canning Sub-Division, having licence number
"24 Pgs(s)-CNG-GSBA-134302100028". The said licence
was terminated by the Sub-Divisional Controller, Food
& Supplies, South 24 Parganas, Department of Food &
Supplies, Government of West Bengal being the

respondent no. 4 herein on 3rd November, 2016. After the demise of said Pralay Shankar Majumder on 11th July, 2021, the petitioner being his widow made an application on 3rd July, 2023 for grant of FPS dealership licence on compassionate ground in her name. The petitioner attended the hearing on being called but no such decision of such hearing has been communicated to the petitioner. Hence, this writ petition.

Mr. Syeed E. Huda, learned advocate for the petitioner submits that direction may be issued upon the respondent no. 2, the Commissioner, Department of Food & Supplies herein to consider the representation of the petitioner dated 3rd July, 2023 for grant of FPS dealership licence on compassionate ground.

Mr. Sirsanya Bandopadhyay, learned advocate for the State-respondents submits that vide order 3rd November, 2016, the licence of the petitioner's husband namely, Pralay Shankar Majumder was terminated by respondent no. 4, the Sub-Divisional Controller, Food & Supplies, South 24 Parganas, Department of Food & Supplies, Government of West Bengal herein. The petitioner's husband challenging such termination filed a writ petition being WPA 28774 of 2016, which was dismissed on 28th August, 2018. The order of dismissal of the writ petition was assailed in appeal being MAT 1066 of 2018. The appeal was disposed of requesting the authority concerned to dispose of the representation of the petitioner's husband after giving opportunity of

hearing to him. In compliance thereof, the respondent no. 4, the Sub-Divisional Controller, Food & Supplies, South 24 Parganas, Department of Food & Supplies, Government of West Bengal on 7th May, 2019 after hearing the petitioner's husband, affirmed the order of termination of licence, which was made on 3rd November, 2016. Therefore, the termination of licence of petitioner's husband was made effective from 3rd November, 2016. The petitioner on 3rd July, 2023 has made an application for grant of FPS dealership licence on compassionate ground. The engagement on compassionate ground as contained in Clause 20 (vi) of the West Bengal Public Distribution System (Maintenance and Control) Order, 2013 provides that the grant of licence on compassionate ground can be made in respect of existing dealer and not a licensee whose licence has been terminated. Since the petitioner's husband is not an existing dealer on the date of application of the petitioner for grant of such licence, no right accrued to the petitioner for engagement on compassionate ground. He further indicates that it will be a futile exercise to again relegate the matter to the concerned department for consideration of representation of the petitioner. He files copy of order dated 11th April, 2019 passed in MAT 1066 of 2019, order of termination of licence dated 3rd November, 2016 and order dated 7th May, 2019 passed

by Sub-Divisional Controller of F & S, Canning, 24-Parganas (South) which is taken on record.

Admittedly, the petitioner's husband was a FPS licence holder. The said licence was terminated on 3rd November, 2016. Pursuant to the order passed in MAT 1066 of 2016 after hearing the petitioner's husband, termination of the licence of the husband of the petitioner was affirmed and given force from 3rd November, 2016. The petitioner made application on 3rd July, 2023 for grant of FPS dealership licence on compassionate ground. Thus, it is found that on the date of application of the petitioner for such grant of licence, the petitioner's husband was not an existing dealer. Clause 20 (vi) of the West Bengal Public Distribution System (Maintenance and Control) Order, 2013 provides that in case of death or in case of incapacitation on medical ground subject to satisfaction of the authority, of any existing dealer, prayer of any of the family members of the deceased/incapacitated dealer having no regular means of income, may be considered on compassionate ground. Since the husband of the petitioner is not an existing dealer, his licence having been terminated on 3rd November, 2016, no right accrued in favour of the petitioner to make application on compassionate ground for grant of FPS dealership licence. This Court finds force in the submissions of Mr. Sirsanya Bandopadhyay, learned advocate for the State-respondents that it will be a futile

exercise to relegate the matter back to the respondent no. 2, the Commissioner, Department of Food & Supplies for consideration of the representation of the petitioner for grant of FPS dealership licence on compassionate ground.

In view of the above, the writ petition being **WPA 4354 of 2024** stands dismissed.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(**Bivas Pattanayak, J.**)