

29.07.2024
Court No.09
Item no.18
CP

WPA No. 7762 of 2023

Hriday Ranjan Saha
Vs.
The State of West Bengal & ors.

Mr. Anirban Mitra
Mr. Amit Halder
Mrs. Madhumita Sadhukhan

....for the petitioner.

Mr. Sudip Sarkar
Mr. Biswajit Ganguly
Mr. Prabir Majumder

....for the respondent no. 8.

Mr. Anirban Ray
Mr. Tanoy Chakraborty
Mr. Debraj Sahu

....for the State.

1. The writ petition has been filed challenging an order dated January 28, 2014, i.e., after 9 years. There is no explanation for the delay. The writ petition suffers from the defect of being inordinately delayed.
2. It appears from the order impugned, that the petitioner's representation was rejected. Such representation was made by a learned advocate. The representation was disposed of first by the Additional District Magistrate (Treasury), North 24 Parganas and Collector, Barrackpore Zone, inter alia, holding that the

appeal filed by the petitioner to include his name as a joint licensee of the country liquor shop could not be considered as the petitioner had not approached the proper authority as per law.

3. On the merits, it was found that the petitioner's father was enjoying the country liquor licence. Upon the death of the father, the elder brother of the petitioner, Nitai Charan Saha, i.e., the predecessor-in-interest of the respondent nos. 7 and 8, was allowed to run the shop temporarily on a temporary licence. By an order of settlement dated May 31, 1987, the licence was settled in the name of Nitai Charan Saha. The order of settlement was set aside by the ECWB vide order dated September 3, 1987 with a direction to settle the licence in terms of Sections 30 to 36 and 37A of the Bengal Excise Act, 1909. Accordingly, two applicants namely the petitioner and the elder brother of the petitioner, Nitai Charan Saha responded to the advertisement published in the Dainik Basumati and the Business Standard on October 21, 1987. A public notice was issued by the department on October 22, 1987. Accordingly, the applicants were interviewed one by one and the petitioner was

empanelled as the first candidate. Nitai Charan Saha was empanelled as the second candidate. The petitioner was offered the licence subject to the petitioner furnishing an objection free site, failing which it was directed that Nitai Charan Saha would be considered. The Collector, North 24 Parganas rejected the site offered by the petitioner by an order dated January 6, 1988 and allowed Nitai Charan Saha to hold the said licence at the site offered by him.

4. An appeal was preferred by the petitioner which was rejected by an order dated August 18, 1988. The petitioner preferred a revision. The petitioner complained before the authority that the licence had been settled in favour of his elder brother and his mother after the demise of his father and as such the petitioner had a claim upon demise of his mother. The authority found on inspection of the records that Nitai Charan Saha became the sole licensee in 1987-88. Thereafter, the licence was renewed upto 2002-2003. Kaustav Saha, (Netai's son), was inducted as a joint licensee with due approval from the Excise Commissioner – West Bengal sometime in

February 4, 2003 and all formalities had been observed.

5. There was nothing on record which would show that Annapurna Saha, the mother of Nitai Charan Saha and the petitioner had ever held any joint licence in respect of the shop in question. It was found from the records that the petitioner had relinquished his rights to the business in favour of his elder brother Nitai Charan Saha by affirming an affidavit on January 18, 1993 upon acceptance of a sum of Rs.2,50,000/-. Subsequently, as per the instruction of the Excise Directorate. The petitioner and his wife submitted a representation. Certain queries were made by the authority, but the petitioner failed to reply to such queries with material evidence. Under such circumstances, the authority did not find any merit in the contention of the petitioner.
6. The disputed questions of facts cannot be gone into. Admittedly, in 1988 the licence was settled in favour of Nitai Charan Saha. The orders in appeal and revision were against the petitioner. The petitioner also submitted an affidavit thereby relinquishing his rights in respect of the business. The contention of the petitioner that his mother was one of the joint

licensees could not be established with evidence. The authority ultimately held that the petitioner did not have any right in the business. The consideration of the candidature of the petitioner for grant of licence in place of his father was reached to its logical conclusion long ago. The order impugned is of 2014. In 2024 also, the petitioner has not come up with any relevant documents to prove his right in the business. The petitioner has not been able to demonstrate any procedural irregularity in the decision making process. The orders were passed by the authority long time ago in accordance with the rules and the petitioner has not been able to succeed in any of the earlier proceedings, before the authorities. Moreover, records speak that by an affidavit, the petitioner had relinquished his claim in the business, in favour of Netai. Such affidavit was officially filed before the authorities upon a lapse of 10 years, such issues cannot be reopened.

7. Under such circumstances, the writ petition is not entertained.
8. The writ petition is accordingly disposed of without any orders.

There shall be no order as to costs.

All parties are to act on the basis of server copy
of this order.

(Shampa Sarkar, J.)