

09.7. 2024
item No.10
n.b.
ct. no.24

WPA 10557 of 2023
with
CAN 1 of 2023

Gurupada Das.
Vs.
State of West Bengal & Ors

Mr. Sujit Kr. Rath,
Mr. Anirban Saha,
..... for the petitioner.
Ms. Sonal Sinha,
Mr. Amritlal Chatterjee
..... for the State.

The instant writ petition has been preferred against the order of termination of licence dated 6.7.2020 of the present petitioner being MR dealership passed by the Sub-Divisional Controller Egra Purba Medinipur.

The checkered history of the case is that on May 6, 2020 a show cause letter was issued against the present petitioner for alleged violation of the clause 18 of part III of WBPDS(M&C), Order 2013. In terms of the said show cause notice one suspension letter was issued by the concerned authority on April 16, 2020. Thereafter, the tagging order was passed regarding the ration card holders allotted to the present petitioner were tagged with nearby FPS dealer.

It is the case of the present petitioner that by virtue of a notification of the concerned authority the ration article were not be distributed in the name of deceased

ration card holder. The present petitioner did not distribute the ration articles to the deceased card holder. The sanctioning authority has curtailed 2% to 3% allotment of rationing goods from the total quota of allotment. Suddenly, on 6.5.2020 some miscreants of the locality has attacked the FPS shop of the present petitioner and damaged the FPS shop including the ration articles. The said incident was communicated to the concerned authority including the local PS through a General Diary on May 8, 2020.

It is the case of the present petitioner that after the order of termination, he preferred an appeal before the concerned authority wherein an order was passed by the concerned first appellate authority on 24.9.2020. Against the said order the present petitioner approached this Court in a writ petition no. W.P.8692 of 2020; wherein this Court has directed the concerned appellate authority to take a fresh decision. By virtue of said direction, the personal hearing of the present petitioner was conducted and the impugned order dated 28.3.2023 was passed whereby the order of termination passed by the competent authority was upheld.

Being aggrieved by and dissatisfied with the said order, the instant writ petition has been preferred.

Learned advocate appearing on behalf of the State Mr. Chatterjee submits that the entire case of the present petitioner is not at all believable. The inspection was

conducted and the show cause notice was issued on May 6, 2020 but the factum of ranshaking at fair price shop was reported to the concerned authority and the police only on May 8, 2022. The said complaint to the police is afterthought. It is the further submission on behalf of the State that necessary opportunity was given to the petitioner and the personal hearing was also given in terms of the order of this Court.

Mr. Cjhatterjee submits at this juncture, the impugned order being a reasoned order there is not scope to interfere with.

Heard the learned advocates. Perused the entire petition as well as the annexures thereof, it appears that the order of termination was challenged before the first appellate authority. Clause 25 of the Control Order, 2013 reads as follows:

“25. Appeal – Any dealer or FPS licensee aggrieved by an order of the Sub-divisional Controller, Food and Supplies, denying the issue or renewal of the licence to the fair price shop owner, or cancellation of the licence may prefer an appeal to the District Controller, Food and Supplies concerned within 30 days from the date of receipt of the order of Sub-Divisional Controller, Food and Suppliers concerned and on receipt of such appeal District Controller, Food and Supplies concerned shall dispose of the appeal within 60 days from the date of receipt for the appeal petition after giving opportunity of hearing to the

appellant. If the FP shop owner is aggrieved or dissatisfied with the order of District Controller, Food and Supplies concerned he may appeal against the order of the District Controller, Food and Supplies concerned to the Director, DDP&S, within thirty days of the date of receipt of the order and the Director shall as far as practicable dispose of the appeal within a period of sixty days from the date of receipt of the appeal after giving the person a reasonable opportunity of being heard.

It appears that the order of termination can be challenged before the District Controller, Food & Supply as a first appellate authority; thereafter, against the order of appellate authority, the present petitioner may challenge before the Director WBPDS(M&C) within 30 days as second appellate authority.. It appears that the present petitioner has not availed the opportunity to file the said second appeal according to the provision of Clause 25 of WBPDS(M&C), Order 2013.

However, it further appears that the present petitioner has approached this Court against the order of appellant authority.

In view of the fact that that present petitioner has been prosecuting with due diligence before this Court. So, at this juncture, according to the provision of Section 14 of Limitation Act, the present petitioner may be allowed to approach to the second appellate authority against the impugned order passed by the first appellate authority.

Limitation thereof for filing 2nd appeal be condoned by virtue of Section 14 Limitation Act, on the condition that the present petitioner must approach the second appellate authority within six weeks from this date.

If present petitioner applied to the second appellate authority within time stipulated; the said appeal shall not be barred by limitation.

Under the above observation, the instant writ petition is disposed of.

On such appeal, the second appellate authority shall consider all the grievances of the present petitioner according to the law and if appears to be justified, the second appellate authority may remand back to reassess the matter afresh.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)