

15.05.2024
Ct. 654
Sl.no.7
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 11476 of 2024

**Sunil Kumar Maji @ Sunil Maji
-Vs-
The State of West Bengal & Ors.**

Mr. Samiran Mandal
Mr. Abhinaba Dan
Ms. Ankita Mukherjee
Ms. Sreemoyee Datta

... for the petitioner

Mr. T.M. Siddique
Mr. T. Chakraborty
Mr. S. Sanyal

... for the State-respondents

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

By the present writ petition, the petitioner has
sought for restraining the respondents from giving effect
to the order of termination of licence of the petitioner
passed by the Sub-Divisional Controller, Food &
Supplies, Bankura, being the respondent no.7, dated 1st
June, 2020 and the order passed by the District
Controller, Food & Supplies, Bankura dated 27th May,
2021 in appeal upholding such order of termination.

The petitioner's case, in nutshell, is that the
petitioner used to run Fair Price Shop and Superior
Kerosene Oil shop on the basis of licence granted by the

State-respondents. On 2nd April, 2020, suspension-cum-clarification notice was issued on the ground of violation of the provisions of West Bengal Public Distribution System (Maintenance & Control) Order, 2013 (hereinafter referred to as 'Control Order, 2013'). On 8th April, 2020, FIR was lodged against the petitioner under Sections 406/409 of Indian Penal Code and Section 7 of Essential Commodities Act and Section 53 of Disaster Management Act, 2005 being Gangajalghati P.S. Case No. 47 of 2020. On 1st June, 2020, the licence of the petitioner in respect of Fair Price Shop and Superior Kerosene Oil shop was terminated. The petitioner preferred appeal before the District Controller, Food & Supplies, Bankura, challenging the order of termination passed by the Sub-Divisional Controller, Food & Supplies, Bankura. The appeal was dismissed and the order of termination was upheld by the District Controller, Food & Supplies, Bankura on 27th May, 2021. Thereafter on 24th August, 2023, subject vacancy notification was published. The termination of licence is illegal and perverse so also the FIR lodged against the petitioner is bad in law. It is contended that since the petitioner previously was carrying on FPS dealership and Superior Kerosene Oil Shop in the subject location, the engagement of a new dealer would affect the right of the petitioner. On such ground, the petitioner has preferred the present writ petition.

Mr. Abhinaba Dan, learned advocate for the petitioner submits that the criminal case arising out of alleged violation is still pending before the learned District & Sessions Judge, Bankura. Due to the pendency of the criminal case, the petitioner could not take steps against the affirmation of the termination of his licence. He seeks that the vacancy notification be stayed till the disposal of the criminal case.

In reply to the contentions raised on behalf of the petitioner, learned advocate for the State-respondents submits that the writ petition is hopelessly barred by limitation inasmuch as the order affirming termination of the licence of the petitioner has been passed on 27th May, 2021 and till the date of publication of the vacancy notification on 24th August, 2023 the petitioner has not taken any step against such upholding of termination of licence and thus such termination of licence has reached its finality. In the light of the aforesaid submissions, he seeks for dismissal of the writ petition.

On 2nd April, 2020, suspension-cum-clarification notice was issued pertaining to violation of provision of Control Order, 2013. By order dated 1st June, 2020 of the Sub-Divisional Controller, Food & Supplies, Bankura (Anneure P/3 at page 18 of the writ petition), the licence of the petitioner was terminated. It is relevant to note from the said order that the petitioner did not reply to the suspension-cum-clarification notice,

which was duly served upon him. The petitioner challenged the said order of termination of licence before the District Controller, Food & Supplies, Bankura, in the appeal. The order of termination of licence passed by the Sub-Divisional Controller, Food & Supplies, Bankura was affirmed and the appeal was disposed of. Clause 25 of Control Order, 2013 provides that if the Fair Price Shop owner is aggrieved or dissatisfied with the order of the District Controller, Food & Supplies concerned, he may appeal against the order of the District Controller, Food & Supplies concerned to the Director of DDP&S within 30 days from the date of receipt of the order. Admittedly, no appeal has been preferred against the order of the District Controller, Food & Supplies, Bankura upholding the order of termination of licence passed by the Sub-Divisional Controller, Food & Supplies, Bankura within the stipulated period. Thus, such order of termination of licence of the petitioner has reached its finality. In light of above discussion, the writ petition falls short of merit.

Accordingly, the writ petition being **W.P.A. 11476 of 2024** stands dismissed.

All connected applications, if any, stand dismissed.

Interim order, if any, stands vacated.

There shall be no order as to costs.

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

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.**)