

3.9. 2024
item No.7
n.b.
ct. no.24

WPA 10630 of 2018

**Shakuntala Devi Kataruka & Ors.
Vs.
State of West Bengal & Ors.**

Mr. Debabrata Saha Roy,
Mr. Neil Basu,
Mr. Sankha Biswas,
..... for the petitioners.
Mr. Sanjay Saha,
..... For the respondent nos. 3 to 5.
Mr. Amitesh Banerjee,
Mr. Tarak Karan
..... for the State.

Affidavit in opposition filed by the respondent is taken on record.

Predecessor of the present petitioner, namely, Shyam Sundar Kataruka was a M.R. Distributor. The said Shyam Sundar Kataruka deposited sum of Rs.5,46,000/- on October 4, 2010 with the WBECSC Ltd. in order to purchase Potato from the authority concerned. On the prayer of the said Shyam Sundar Kataruka, one MR cum delivery order was issued by the authority concerned on October 5, 2010. By such delivery order the godown-in-charge of the concerned authority was also instructed to act upon the said delivery order; when the persons of the said Shyam Sundar Kataruka went to the godown, it appears that the rate of the Patato was increased in the meantime. Thus, the concerned godown-in-charge did not allow the said distributor to lift the Patato. The said

distributor subsequently expired on November 1, 2010. The present petitioner being the legal heirs of the deceased distributor submitted an application before the Manager of the concerned authority so, that the amount deposited by the distributor may be refunded. On their prayer, the Manager issued an order on December 29, 2010. But such money was never refunded. They also made another representation to the Manager on June 8, 2021. On the prayer of the representation, the Managing Director of the concerned authority has again issued an order on April 9, 2012 for refund of money. Nothing has been materialized by the present authority concerned, hence the instant writ petition.

Learned counsel appearing on behalf of the respondent authority used affidavit-in-opposition against the writ petition. In the affidavit-in-opposition they have admitted the fact of deposition of amount by the said deceased distributor, but they are of the view that four documents are needed to carry out the order of the Managing Director. The documents are quoted below:

- a. Original money receipt issued by Account Division to Shyam Sunder Kataruka against payment made by him.
- b. Copy of the Work order issued to Shyam Sunder Kataruka by WBECSE Ltd. for carrying out the patato.

- c. Completion Certificate issued by the concerned District Controller, Food & Supplies Department of the district.
- d. Original challans duly attested by the Competent Authority substantiating the delivery of the commodity.

Having heard the submission of the parties and also perusing the pleadings, it appears that the authority concerned required four types of documents, amongst them, document number (c) and (d) cannot possibly be given because no part of the delivery order was mutually executed. However, the challan also could not be given by virtue of fact that the Patato has never lifted from the godown.

Considering the same, it appears to me that the prayer of the petitioner is bona fide. Thus, the authority must be act upon the said prayer.

By virtue of the above discussion, the writ petition is disposed of with a direction to the authority concerned to release the amount of Rs.5,46,000/- in favour of the present petitioners on deposit of the documents as mentioned in paragraph 4(iii) (a) and (b) of affidavit-in-opposition, along with the original succession certificate issued by the Court.

The authority concerned is to conclude the exercise within four weeks from the date of communication of this order.

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

(Subhendu Samanta, J.)