

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***M.A.T. 1039 of 2022
(CAN 1 of 2022)***

***Manik Maji
-Vs-
State of West Bengal & Ors.***

For the Appellant : Mr. Prolay Bhattacharya, Adv.,
Ms. Sanchayita De, Adv.

For the State : Sk. Md. Galib, Id. Sr. Govt. Adv.,
Mr. Anubrata Santra, Adv.

Heard on : 13.06.2024

Judgment on : 13.06.2024

Joymalya Bagchi, J. :-

1. Appellant is aggrieved by the cancellation of his licence on the ground that he had not made an application for renewal of licence since 2010.

2. Appellant was functioning as a M. R. Dealer under the West Bengal Public Distribution System, Maintenance and Control Order,

2003. On 8th March, 2009 his license was suspended. Subsequently, on 8th March, 2010 his licence was revoked.

3. Appellant approached this Court in WP 26240 (W) of 2013 and a learned Single Judge of this Court directed the respondent Controller to issue a show cause notice upon the appellant and after giving an opportunity of hearing to pass a reasoned order. On 16th February, 2016, the respondent rejected the representation of the appellant and affirmed the revocation dated 8th March, 2010.

4. Appellant again approached this Court in W.P. 8252 (W) of 2016 and the learned Single Judge again set aside the order of revocation and remanded the matter for fresh hearing after issuance of proper show cause notice.

5. Thereafter, a show cause notice dated 8th July, 2016 was served on the appellant. After considering his objection as well as oral submission, Sub Divisional Controller by order dated 15th September, 2017 reiterated the earlier decision of revocation on the ground the appellant had not renewed his licence since 2010. Appellant unsuccessfully approached the learned Single Judge and presently is before us.

6. Learned Advocate for the appellant contends his client was unwell and was unable to submit application for renewal within time. He also contends as his licence had been suspended, there was no scope of seeking renewal.

7. Learned Advocate for the respondent-State contends appellant has taken prevaricating stance in the matter. In his written objection he contended the officers of the Department had taken away his licence and had prevented him to submit his renewal application before 31st January, 2010. But during oral hearing, he changed his stance and claimed he was unable to do so due to illness. Appellant's licence had not been cancelled and/or revoked. Accordingly, he was duty bound to make an application for extension of licence within stipulated the time which he failed to do so. Accordingly, his licence was cancelled as per paragraph '12' of 2003 order.

8. We have considered the submissions of the parties. Admittedly, appellant had not taken out application for extension of licence within the stipulated time. In response to the show cause notice, he took inconsistent stance with regard to the issue. In his written reply, he contended Department Officers had prevented him from making application whereas in course of oral hearing he claimed he was ill.

9. In light of such contradictory stance authority concerned was unimpressed and revoked his licence. The other issue canvassed before us is that he was not required to make application for extension as his licence had been suspended. Suspension of a licence does not amount to its cancellation. That apart, in earlier rounds of litigation, it was the appellant's case that he was unaware of the suspension till his licence was cancelled and/or revoked in October, 2010.

10. In view of the aforesaid, it does not stand in the mouth of the appellant to contend that he had not made application for extension of his licence within the stipulated period on the score of the suspension order.

11. Accordingly, the appeal is dismissed.

12. In view of dismissal of the appeal, connected application being CAN 1 of 2022 is also dismissed.

13. There shall be no order as to costs.

14. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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