

24th January,
2024
(AK)
08

W.P.A 15927 of 2023

Debendra Nath Gayen @ Deben Gayen
Vs.
State of West Bengal and others

Mr. Himadri Sikhar Chakraborty
Mr. Sk. Samsul Arefin
...for the petitioner.

Mr. Md. Talay Masood Siddiqqi
Ms. Indrani Nandi
...for the State.

1. The affidavits-in-opposition and reply filed in court today be kept on record.
2. The stand taken by the respondent authorities, fairly for that matter, clearly shows that the Office Order dated June 23, 2016 annexed at page-16 of the affidavit-in-opposition of the State indicates that under certain conditions mutation of fishing boats can be done such as old age/illness of the boat license holder or death of the boat license holder.
3. However, it is clearly stated therein that the mutation will be done only in favour of blood related descendants (son, unmarried daughter) or wife after proper enquiry from the end of the Chief Conservator of Forest and Field Director, Sunderbans Tiger Reserve.

4. Although it is clarified in a report on issuance of permits that if a person has changed his profession but continues to lend his boat to fishermen on rent, the license of the said fishermen can be cancelled, however, in the present case, the license of the petitioner as a fisherman has never been cancelled by the State.
5. Rather, the State relies on a purported deed of gift executed allegedly by the petitioner in favour of a third party, in terms of which the license was transferred to the said third party, namely one Sachindranath Biswas.
6. In paragraph no. 16 of the affidavit-in-opposition, it has been stated that after the first transfer in the name of Sachindranath Biswas by virtue of the purported gift deed, afterwards it was again transferred to Smt. Kalyani Biswas who was the widow of the then holder of the BLC (Boat License Certificate) and legal heir.
7. However, even as per the Rules in terms of the Office Order cited by the respondents, there is no provision for transferring a boat license even if a gift deed was executed by the petitioner in the first place, in favour of third party is not being his blood relations.
8. Moreover, the petitioner also seeks to disown the gift deed purportedly executed by him. Even

without going into the question of the veracity of the gift deed or otherwise, such a gift deed or transfer deed could not be executed or effected by the existing license holder for a transfer or mutation to be effected in favour of a third party not being the transferor's blood relation.

9. The entire transfer in favour of first Sachindranath and then his wife Kalyani Biswas are, thus, bad in law and ought to be set aside.
10. Accordingly, WPA 15927 of 2023 is allowed on contest, thereby directing the respondent authorities to ensure that the petitioner's boat is immediately restored to the petitioner to enable the petitioner to ply the same in terms of a valid license, if held by the petitioner.
11. The respondent authorities shall also restore the boat license in favour of the petitioner.
12. For the purpose of physically handing over the boat to the petitioner, if required, the respondent nos.3 to 5 shall ensure that the same is handed over, if necessary with the help of respondent no.7, the Officer-in-Charge of the Sunderban Coastal Police Station, at the earliest, preferably within a month from date.
13. There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)