

2.9. 2024
item No.40
n.b.
ct. no.24

WPA 19696 of 2024

**Progressive Consumers Co-operative Stores Ltd..
Vs.
State of West Bengal & Ors.**

Mr. Srinjoy Das,
Mr. Arvind Kumar Singh,
..... for the petitioner.

Mr. Srijan Nayak,
Ms. Rituparna Maitrs,
..... for the respondent no.4.

Mr. Amrit Surena,
Mr. Biplap Das,
Mr. Partha Pal,
..... For the respondent no.3.

The present petitioner is a cooperative society, who was given a licence of FPS being no. WB 033105955. It is the case of the petitioner that after the expiry of the term of the officer bearer of the said cooperative society, one Special Officer was appointed by the concerned department to manage the affairs of the cooperative society including the FPS business. The Special Officer was appointed till the new board/office bearers of the cooperative society be elected by the election commission.

It is the case of the petitioner that there was an inordinate delay on behalf of the Election Commission to conduct election. During the said period, the concerned State authority, Department of Food and Supplies conducted an enquiry and found discrepancy and huge shortage of PDS commodities. Accordingly, the proceeding

under clause 24 of the WBPDS(M& C), Order, 2013 was initiated. The licence of the cooperative society is put under suspension and it was terminated thereafter. The cooperative society was directed to deposit a sum of Rs.33,82,107.70 towards realization of economic cost of PDS commodities, which found mis-appropriated by the licensee.

The petitioner submits that they are the newly elected office bearers of the said cooperative society and had no knowledge regarding proceeding adopted by the concerned department. He submits that the act and action of the Special Officer is in doubtful that is why, the instant proceeding was initiated. He further submits that necessary direction upon the state authority may be passed to quash the demand of payment of exorbitant and un-substantiate sum.

Learned counsel appearing on behalf of the state authority submits that during the inspection, the State authority found that there are huge discrepancy including the mis-appropriation of PDS commodities. According to the provisions of WBPDS(M&C), Order, 2013, the licensee was directed to deposit the realisation of the said economic cost of PDC.

Learned counsel further submits that according to the provision of clause 34 of the said control order, there is provision of appeal, which was not availed of by the present petitioner.

Learned counsel appearing on behalf of the respondent no.4(Cooperative Election Commission) submits that the election of Board of Directors was concluded on February 18, 2024 and election of office bearers of the Co-operative Society was concluded on March 18, 2024. The Election Commission now has no role to play, moreover, no prayer has been made by the petitioner against the present respondent.

Heard learned counsels for the parties also considered the office memo dated May 14, 2024, it appears that the order of termination of the said FPS was passed by the concerned authority on November 10, 2022. However, that order was not ever challenged by the present petitioner before statutory appellate forum.

It further appears that the present petitioner has no opportunity to challenge the order as they were not selected or appointed by the concerned authority after proper selection process. It further appears that through there is a provision of appeal under Clause 32 of the WBPDS(M& C) Order, 2013, but the present petitioner has not availed the same.

However, the present petitioner was directed to deposit the Rs.33,82,107.70/-, which they challenged before this writ court. It appears to me that order of termination and the imposition of fine can be challenged by the present petitioner before the appellate Court as per

provision of WBPDS(M & C), Order, 2013. However, delay thereof in preferring the appeal may be condoned.

The petitioner is directed to file an appeal according to the provision of Control Order, 2013 within four weeks from the date of passing of this order. If the said appeal is preferred within the stipulated period as mentioned above, the delay in preferring the appeal should be condoned by the appellate authority.

The challenge of direction of deposit of Rs.33,82,107.70/- and any merit thereof regarding the termination of licence be kept open. The appellate authority has to determine the same.

After hearing the petitioner, the appellate authority and shall disposed of the appeal within eight weeks from this date. The decision of the appellate authority should be informed to the petitioner within one week after disposal of the appeal.

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

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

(Subhendu Samanta, J.)