

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. 1733 of 2024
(CAN 1 of 2024)
(CAN 2 of 2024)

Munshi Jahanara Khatun
-Vs-
Nazia Begam & Ors.

For the Applicant : Mr. Biswanath Chakrabarti, Adv.,
Mr. Krishnendu Bera, Adv.

For the State : Mr. Swapan Kumar Datta, Sr. Adv,
Mr. Dipankar Das Gupta, Adv.

Heard on : 13.09.2024

Judgment on : 13.09.2024

Joymalya Bagchi, J. :-

1. Applicant has prayed for leave to appeal to assail judgment and order dated 23.08.2024 whereby decision of the Sub Divisional Controller not to grant license to the writ petitioner/respondent viz Nazia Begam was set aside and the authority concerned was directed to issue license in her favour.
2. Factual matrix giving rise to the application are as follows:-

3. Munshi Jahanara Khatun, applicant herein, was the owner of an M. R. License No.1080/MR and S. K. Oil License No.113/K/DK/09. In 1988 she prayed for induction of writ petitioner/respondent due to financial stringency. Her prayer was allowed and a joint license was issued in favour of Nazia Begam and the applicant in 2000. In November, 2011, applicant surrendered her license which was accepted by the authority. Thereafter, Nazia Begam prayed licenses be issued in her favour in individual capacity. Respondent authority did not consider her prayer and two writ petitions being WP No.1105 of 2011 and WP No.41 of 2012 came to be filed. Writ petitions were disposed of directing the Sub Divisional Controller, Food and Supplies (SCFS in short) to take a decision in the matter. Thereupon, respondent authority by the impugned order dated 02.09.2016 rejected Nazia's prayer to issue licenses in her favour. This came to be challenged in the present proceeding. Hon'ble Single Judge relying on the ratio in *Amitava Datta Vs. State of West Bengal*¹ and *Utpal Ghosh Vs. State of West Bengal*², inter alia, held upon relinquishment of right by the co-partner, Nazia was entitled to a license in individual capacity.
4. Applicant had already surrendered her license in 2011. During the hearing of the writ petition, she made an application for addition of

¹ 2012 SCC OnLine Cal 3983

² WPA 7087 of 2019 dated 14.12.2023

party in the proceeding. Without giving an opportunity of hearing to the applicant, writ petition was allowed.

5. Learned Advocate for applicant contends his client was the original licensee. Due to financial stringency, Nazia had been inducted as a co-partner and a joint license was issued in 2000. Till the impugned order was passed provisional joint licenses had been issued from time to time. She had taken out an application for recalling her surrender. No order had been passed on the said representation till date. Hence, applicant ought to have been given an opportunity of hearing before directing issuance of license in favour of Nazia.
6. We are unimpressed by his submission. Admittedly, applicant had surrendered her license in 2011. Application for surrender was accepted and acted upon. After a lapse of a decade she took out an application for recalling the surrender.
7. Mr. Chakrabarti contends an Hon'ble Single Judge in WPA 16344 of 2023 had directed the authorities to take a decision in the matter. No decision has been taken till date but by the impugned order the license was directed to be issued in favour of Nazia Begam alone.
8. We do not wish to make any comment with regard to merits of the representation made by applicant to withdraw her surrender after a decade. It is open to the respondent authorities to take necessary decision in the matter in light of aforesaid observation. However, till

her surrender is recalled, she has no legal right to canvass in respect of the license in question.

9. Accordingly, applicant cannot be said to be a person aggrieved by the impugned order. However, it is left open to the applicant to seek necessary redress in the event her representation for recall is favourably considered by the respondent authorities.
10. With this observation, application for leave to prefer appeal being CAN 1 of 2024 is disposed of.
11. Consequently, appeal and the connected application are also disposed of.
12. There shall be no order as to costs.
13. 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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