

07.10.2024

Ct. no.24

Sl. No.32

sn

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 24044 of 2024

Madan Mohan Mondal
Vs.
The State of West Bengal & ors.

Mr. Samiran Mondal

Mr. S.C. Dhara

..for the petitioner

Ms. Sonal Sinha

Ms. Asmita Ghosh

Mr. Amrita Lal Chatterjee

..for the State

Affidavit-of-service filed on behalf of the petitioner
is taken on record.

The father of the petitioner, namely,
Narayan Chandra Mondal, was a M.R. Dealer along with
Kerosene Oil licence being No. NAD/KYLN-CHKD-
133601200083-20 at village Dubra, Post Office Gouripur,
Police Station Chakdaha, District Nadia. The said
Narayan Chandra Mondal expired on 14th January, 2021
leaving behind the present petitioner and one married
daughter, namely, Madhabi Maity. During the death of
his father, the petitioner was seriously ill and suffering
from heart disease and he went to Bangalore for
treatment. He was bedridden for a quite long period of
time. During that period, the wife of the petitioner,
namely, Smt. Bishnupriya Mondal applied for fair price

licence of her deceased father-in-law on compassionate ground. Her prayer was rejected by the concerned authorities on 8th November, 2021.

It is the submissions of the present writ petitioner that the petitioner was unaware about of the fact and law. Moreover, he was seriously ill during that period. It is the further case of the petitioner that the concerned authorities must have enquired about the other legal heirs of deceased Narayan Chandra Mondal. He further submits that now the authority concerned has declared a resultant vacancy over the area in the month of May, 2024. The petitioner submits that he may be given leave to file a specific application with the authority concerned so that he may be engaged/appointed in the said FPS dealership under compassionate ground.

Mr. Amrita Lal Chatterjee, learned advocate for the State respondents submits that the matter was decided by the authority concerned in the year 2021, since then the petitioner never approached the authorities. It appears to the authority that the petitioner or any heir of the earlier FPS licence holder, Narayan Chandra Mondal, since deceased, had no interest over the licence. Moreover, now resultant vacancy had already been declared. At this juncture, the representation of the petitioner cannot be considered, according to the law.

Having heard learned counsel for the respective parties as also after considering the memo dated 8th

November, 2021, it appears to me that the prayer of the daughter-in-law of earlier FPS licence holder was not considered by virtue of Clause 1(c) of the West Bengal Public Distribution System (Maintenance & Control) Order, 2013. Admittedly, the law laid down at the time has been changed due to subsequent amendment. However, it is true that the present petitioner never approached the authority to show his interest for getting FPS licence. It is quite regular for the authority to declare the resultant vacancy.

In considering the approach of the legislature in codifying Clause 20(6) of WBPDS (M&C) Order, 2013, for the purpose of appointment on compassionate ground, it appears to me that the said legislation is a beneficial legislation only to give benefit to the heirs of the deceased licence holder so that they may continue the FPS business. The person concerned, i.e. legal heirs of deceased FPS licence holder must get an opportunity to file an application before the authority concerned on compassionate ground. However, on said application, the authority concerned shall dispose of his application, according to law.

Under the above observations, the authority cannot debar any person to file application, if he is eligible.

With the above observations, the instant writ petition is disposed of with leave to the petitioner to apply to the authority concerned for FPS licence on

compassionate ground in respect of his deceased father's FPS licence.

The petitioner is directed to approach the authority concerned positively before 9th November, 2024. On said representation, the authority concerned shall dispose of his representation within four weeks thereafter.

I make it clear that the authority concerned shall dispose of the representation of the petitioner, according to law without being cumbered themselves by mere technicalities on limitation.

The reasoned order shall be intimated to the petitioner within two weeks thereafter.

With the above observations, the writ petition is disposed of.

There will be, however, no order as to costs.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Subhendu Samanta, J.)