

AD 33
08.10.2024
Ct No. 24
S.Das

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 24512 of 2023

with

CAN 1 of 2024

Sunil Kumar Halder

Vs.

The State of West Bengal & Ors.

Mr. Malay Dhar

Mr. Amarnath Sen

Ms. Mandakranta Mukherjee

.....for the petitioner.

Mr. Anirban Roy, Id. Govt. Pleader,

Mr. Sk. Md. Galib, Id. Sr. Govt. Adv,

Mr. Safik Dewan

...for the State.

Mr. Shyama Prasad Purkait

Ms. Moumita Mondal

...for the respondent nos. 5 & 6.

Learned advocate appearing on behalf of the petitioner submits that some wrong prayer has been incorporated in the writ petition, however, considering the factual aspect of the writ petition which provide for necessary relief according to the law.

The brief fact of the case is that the present petitioner was a SCFS Dealer. His licence was suspended vide Order dated 11th June, 2018 by the concerned Sub-Divisional Controller (Food & Supplies), Diamond Harbour.

At the time the population of the ration card holder dealer were de-linked by the said order of suspension. The present petitioner approached to the Authority concerned. The Sub-Divisional Controller(Food & Supplies), Diamond Harbour after hearing the petitioner had issued an order of revocation of suspension order on 9th October, 2018 and it

has specifically ordered that the entire panchayet area of population(except the population of Diamond Harbour Municipality of Sunil Kumar Halder will be re-linked by from tagged account of FPS Dealer Sanat Kumar Gayen in the interest of PDS. Such order of re-link was not complied with the concerned Authority. Accordingly, the petitioner has filed a statutory appeal before the District Controller (Food & Supplies), Alipore, South 24 Parganas.

During the argument, the learned counsel appearing on behalf of the petitioner submits that the appeal is infructuous due to wrong prayer so, he will not press the appeal before the Authority concerned.

By submission of CAN 1 of 2024 it is the prayer of the petitioner that the concerned Sub-Divisional Controller(Food & Supplies), Diamond Harbour has issued a new vacancy on 21st May, 2024 in respect of mouza – Dhanberia under the Post Office Dhanberia.

It is the case of the petitioner that such area was within the linked population area of the present petitioner which was illegally delinked by the order of suspension.

Hr further submits that though the order of relink was made by the Authority concerned, but they did not comply with the order.

He submits that at this juncture, if the new vacancy notification was allowed to be continued, the present petitioner shall suffer immense.

Mr. Galib, learned senior government advocate appearing for the State Authority raised strong objection and specifically pointed out the prayer in the writ petition.

He also submits that till the statutory appeal is pending, the present writ petition cannot challenge the new vacancy notification. He further pointed out that at present the present petitioner is not holding any licence in respect of the vacancy location of Dhanberia. So he has no cause of action and he tried to intrude a new cause of action in the instant writ petition by way of the CAN application.

Having heard the learned advocate for the parties, it appears to me that the prayer of the writ petition is very short and simple in the nature that the order of the concerned Authority on 09-10-2018 be complied with in its true letter and spirit. The order of relink was not done. The new vacancy notification in respect of the area Dhanberia is about the population which was earlier linked with the present petition. It is true that the concerned Authority must follow their order, but in this case the Authority was not followed their order dated 9th October, 2018.

Under the above aspect, I think it necessary to dispose of the matter by directing the concerned Sub-Divisional Controller (Food & Supplies), Diamond Harbour, the respondent no.3 to comply its order dated 09-10-2018 regarding relink of the ration card holders with the present petitioner.

In respect of the prayer of stay, it appears to me that in respect of CAN 1 of 2024, I think it is necessary that this prayer is out of the ambit of the instant writ petition, if the Authority concerned is decided the issue in respect of their order dated 09-10-2018 there may have no necessity

for publication of new vacancy notification.

With the above observation, the writ petition is disposed of by directing the present petitioner to approach the concerned Authority i. e., respondent no.3 of this writ petition after disposing of the statutory appeal, through a specific representation.

The concerned Authority must disposed of the representation of the petitioner within a period of four weeks after giving an opportunity to the petitioner of being heard and intimate such decision within a period of two weeks thereafter.

With the above observation, the writ petition being WPA 24512 of 2023 is disposed of.

Connected application being CAN 1 of 2024 stand disposed of.

All parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Subhendu Samanta, J.)