

28.11.2024.
Item No. 12.
Court No. 13
sp

M.A.T. 2076 of 2024
With
CAN 1 of 2024
Md. Asraful Islam

-Versus-

The State of West Bengal & Ors.

Mr. Saptangsu Basu, Id. Sr. Adv.,
Mr. Ram Anand Agarwala,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee,
Ms. Sonam Roy,
Ms. N. Khatoon

...for the appellant

Mr. Sirsanya Bandopadhyay,
Mr. Ritesh Ganguly

...for the State

.

1. Affidavit of service filed in Court today is taken on record.

2. The appellant is aggrieved by refusal of the Single Bench to modify an interim order passed on 25th September, 2024.

3. The brief facts of the case are that the writ petitioner/appellant is a M.R. Dealer, who was issued a show cause for showing distribution of PD commodities to deactivated ration cards, i.e., ghost persons.

4. The principal defense taken by the petitioner before the authorities is that he is not responsible for issuance and the deactivation of the ration cards in question. That is exclusively within the domain of Food department and when supplies, were made the system reflected that the cards were still active.

5. The second allegation against the petitioner was that he was not able to ensure door delivery under Duare Ration Scheme of the State. The petitioner was issued show cause on the aforesaid counts and was given an opportunity to reply thereto.

6. The respondents found that the petitioner's reply was not satisfactory and the first authority imposed a penalty of Rs. 20,000/- towards failure to supply doorstep (Duare Ration) and Rs. 7,85,61,044/- for unaccounted paddy supply to ghost beneficiaries. In substance, the respondents found that the petitioner has misappropriated 1/3rd of the aforesaid value of stock since 2015 until September, 2022. The respondent, found that nobody had come forward to claim any stock against the aforesaid cards.

7. The order of the first authority was confirmed by the appellate authority before whom an appeal was preferred by the appellant. The petitioner paid penalty of Rs. 20,000/- and accepted his omission. However, he could not pay a sum of Rs. 7.85 odd crores towards ghost supply.

8. For obvious inability to pay the shortfall of Rs. 7,85,61,044/-, which is most likely three times the value of the actual shortfall of the foodgrain supplied against the deactivated cards, the petitioner's dealership was suspended and the beneficiaries under his dealership were linked to other dealer.

9. The writ petition was filed on 23rd September, 2024 and by the first order dated 25th September, 2024, the Single Bench directed stay of the order of penalty, the order of suspension was already given effect to by the respondents. The only benefit that the appellant got from the first order of the Single Bench dated 25th September, 2024 was that the respondents were restrained from advertising and allotting the dealership.

10. Having realized that the appellant's dealership shall remain suspended, an application for clarification was moved before a Single Bench of this Court which was declined by the order dated 8th October, 2024. By the original order dated 25th September, 2024, the Court called for affidavits from the respondents.

11. This Court is in agreement with the Single Bench that the matter cannot be decided without receiving affidavits from the respondents.

12. Mr. Sirsanya Bandopadhyay, learned counsel for the respondent submits that his affidavit-in-opposition is belated but ready and it shall be filed on Monday (02.12.2024).

13. The petitioner/appellant may file reply thereto within a week thereafter.

14. This Court is not inclined to interfere with the discretionary order passed by the Single Bench at this stage.

15. The matter may be mentioned for final hearing after receiving affidavits before the Single Bench. If mentioned, the learned Single Bench is requested, subject to its business permitting, to take up the hearing of the writ petition expeditiously.

16. With the aforesaid observations, M.A.T. 2076 of 2024 shall stand disposed of.

17. In view of the above, CAN 1 of 2024 shall also stand disposed of.

18. There shall be no order as to costs.

19. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)