

ASR 15.
Ct. no. 24.
13.11.2024

WPA 26998 of 2023
With
CAN 1 of 2024 & CAN 2 of 2024
Santosh Kumar Mahato
Vs.
The State of West Bengal & Ors.

Mr. S. R. Das
Mr. Kshetra Prasad Mukhopadhyay

.....For the appellant

Mr. Saibal Acharya
Mr. Sukhendu Bikash Mukherjee

...For the respondent no. 6

Mr. T.M. Siddiqui
Mr. Amrito Lal Chatterjee

...For the State

Report in the form of affidavit filed on behalf of the State respondent no. 5 is taken on record.

This is a protracting litigation between the two brothers who sought for compassionate appointment after demise of their father namely Mohanlal Mahato, who was a FPS dealer. On the earlier direction passed by a Co-ordinate Bench of this court in WPA 2540 of 2023, the SCFS concerned conducted a inquiry in respect of the financial condition and status of the present petitioner and private respondent no. 6.

After such enquiry it is the finding of the SCFS in the impugned order as follows:

“As per findings at the time of enquiry and supporting documents the petitioner namely Santosh Kumar Mahato S/o Lt. Mohanlal Mahato and Respondent No. 6 namely Ashutosh Mahato S.o Lt. Mohanlal Mahato both are entitled for MR dealership in place of their deceased father on compassionate ground but as per terms and condition of WBPDS (M&C) Order, 2013 as amended the “No Objection” of Ashutosh Mahato is an unavoidable document for engagement as FPS dealer on compassionate ground in favour of Santosh Kumar Mahato in place of his deceased father namely Mohanlal Mahato.

So, the application of Santosh Kumar Mahato S/o Lt. Mohanlal Mahato and application of Ashutosh Mahato S/o-Mohanlal Mahato are not being considered for engagement as FPS dealer on compassionate ground in place of their deceased father. The advertisement of the said vacancy will soon be published in the newspaper as Resultant Vacancy.”

The said impugned order was challenged in this writ petition.

By an interim order the SCFS was directed not to take steps for publishing a resultant vacancy.

The issue involved in this matter that whether no objection is at all required to consider the grievance of the present petitioner.

It appears that the law has been declared by the Division Bench of this court in this matter in **Gurupada Das Vs. State of West Bengal** in paragraph 20 of the said judgement.

It appears that the concerned authority has not considered the law laid down by the Hon'ble Division Bench in **Gurupada Das Vs. State of West Bengal** in deciding such issue.

Under the above observation, I think it would be prudent to refer the matter again to the concerned authority to decide the issue that whether a "no objection" is at all required for appointment of the present petitioner under compassionate ground in respect of the vacancy in question.

Under the above observation, the impugned order passed by the concerned authority dated 16th October, 2023 is set aside.

The Sub-Divisional Controller Food and Supply, Jhalda-I is directed to conduct an enquiry in terms of the decision of the Hon'ble Division Bench in **Gurupada Das Vs. State of West Bengal** to decide the issue.

The concerned SCFS shall pass a reasoned order after conducting the enquiry as mentioned herein above

within eight (8) weeks from the date of passing of this order after giving a reasonable opportunity of being heard to the parties.

The decision so arrived at shall be intimated within two weeks thereafter.

Under the above observation, the instant writ petition and the connected applications are disposed of.

I am made it clear that this court has not gone into the merit of this writ petition, the SCFS is at liberty to decide the matter according to the law, without being influenced by any observations of this court.

[Subhendu Samanta, J]