AD-12
Ct No.09
12.03.2024
TN

WPA No. 28727 of 2023

Sabita Debnath (Bibi)
Vs.
The State of West Bengal and others

Mr. Nirmalya Biswas
.... for the petitioner

Mr. Ashim Kr. Ganguly,
Sk. Md. Masud,
Mr. Tanoy Chakraborty
.... for the State

1. The petitioner submits that in the year 2012, the petitioner applied for an excise licence to run a foreign liquor shop. The matter went up from the Collector to the Excise Commissioner and ultimately to the Principal Secretary. However, apparently on the ground of apprehended law and order situation, the same was not granted.

2. The petitioner thereafter obtained information and was intimated that there was no law and order situation in the area, upon which the petitioner approached the writ court and obtained an order from a coordinate Bench setting aside all the refusals and remanding the matter back for a fresh decision.

3. However, even after the remand, by the impugned order, the Additional Chief Secretary, Finance Department relegated the matter back to the District Authorities for a *de novo* consideration of the petitioner's application, although sufficient materials were available before the said authority to decide the matter itself on merits.

4. It appears from the order of the coordinate Bench that the Principal Secretary, Department of Excise was directed by the coordinate Bench to rehear the revision petition afresh by granting the writ petitioner an opportunity of being heard and thereafter to pass a reasoned order in the light of the observations made in the order of this court.

5. By the impugned order, although certain reasons have been attributed, the Additional Chief Secretary unnecessarily relegated the matter to the District Authorities, although the report of the Deputy Excise Collector was already available to the Additional Chief Secretary.

6. That apart, it transpires from a subsequent reply given to the petitioner on an application filed by the petitioner under the Right to Information Act that the enquiry report in the matter of grant of excise licence in favour of the petitioner has already been submitted by the Collector, Birbhum before the Excise Commissioner who has forwarded the report to the Additional Chief Secretary, Finance himself on March 30, 2023. At present, the information says, the report is lying under consideration of A.C.S. (Finance).

7. Since the report has been forwarded to the Additional Chief Secretary, Finance Department himself and is lying with the said authority, no purpose would be served in remanding the matter back to the District Authorities. The entire exercise will be an exercise in futility if the report is lying with the Additional Chief Secretary but the District Authority starts a *de novo* consideration of the application of the petitioner.

8. In order to avoid unnecessary further harassment of the petitioner, WPA No. 28727 of 2023 is allowed on contest, thereby setting aside the impugned order dated November 02, 2022 passed by the Additional Chief Secretary, Finance Department, Government of West Bengal and directing the Additional Chief Secretary (respondent no.2 herein) to re-adjudicate the issue in the light of the documents already lying before him, including the Deputy Excise Collector's report and the enquiry report which has been subsequently forwarded to him, in accordance with law upon giving an opportunity of hearing to all concerned including the petitioner.

9. It is made clear that in the event the petitioner is represented by an agent or an Advocate, the said agent/advocate shall be permitted to appear before the respondent no.2 to represent the petitioner.

10. It is expected that the respondent no.2 shall complete the entire exercise within a reasonable period, positively within eight weeks from date.

11. There will be no order as to costs.

12. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)