

02.01.2024
Item No.24
As/TR

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

WPA/2856/2023

TAPAN PAUL

VS

THE SUB-DISTRICT CONTROLLER, FOOD &
SUPPLY AND ORS.

Mr. Rounak Paul,
...for the petitioner.

Mr. Momenur Rahaman,
Mr. Sandip Guha Roy,
...for the State.

Learned counsel for the petitioner has represented that the petitioner has filed the present writ petition praying for the following reliefs:

- a) A writ of mandamus directing the Respondents to stop the processing of the transfer of the dealership to Raghunath Paul's wife's name.*
- b) A writ of mandamus directing the Respondents to provide the petitioner with a copy of the merger order and to provide a proper explanation for the merger.*
- c) A writ of mandamus directing the Respondents to release the commission of both the shops in the joint account of the petitioner and Raghunath Paul.*
- d) A writ of mandamus directing the Respondents to provide the petitioner with details of transactions since 2009.*
- e) Issue a writ in the nature of certiorari directing the respondents and/or their men, agents or subordinates to transmit all relevant records pertaining to this case before This Hon'ble Court s*

that conscionable justice may be done after perusing the same;

f) Rule NISI in terms of prayers (a) above;

g) Any such other or further order or orders, direction or directions as Your Lordship may deems fit and proper;

Learned counsel for the petitioner further argues that the petitioner being the partner of the partnership firm has filed the present writ petition by stating that the respondent has to pay the commission amount which was not credited to the joint account no.4001231030084322 in Uttar Banga Kshetriya Gramin Bank. Apart from this learned counsel for the petitioner also submitted that since the other partner namely, Raghunath Paul has only enjoyed the commission, therefore, he prayed to grant the prayer sought for in this writ petition.

Learned counsel appearing for the State-respondent has produced a part-wise reply in which; Para 3 whereof reads as follows:

“3. On 27.01.2023 Tapan Paul submitted an apology prayer to the SCF & S, Siliguri, regarding withdrawn all complaints against Raghunath Paul. Now, regarding the account in which the monthly commission is being credited since April, 2023 is the Joint A/c No..4001231030084322 in Uttar Banga Kshetriya Gramin Bank and a/c. holder are Raghunath Paul & Tapan Paul.”

By showing the para-wise reply in para 3, learned counsel for the State has represented that the respondent would deposit the monthly commission in the joint account no.4001231030084322 in Uttar Banga Kshetriya Gramin Bank in which Mr. Raghunath Paul and the present petitioner Tapan Paul are the partners.

Since the dispute between the two partners in sharing the said commission amount, this Court under Article 226 of the Constitution of India could not solve the said dispute between them. As per the partnership deed the respondent has deposited the entire amount of monthly commission of the respective month in the joint account only. It is the bounden duty of the petitioner as well as the other partner should solve themselves. Therefore, learned counsel for the State prayed before this Court to dismiss the writ petition.

Considering the nature of the arguments advanced by both the parties, it is admitted fact that the petitioner is a partner of the partnership along with one Raghunath Paul, as per the partnership deed. And as per the partnership deed the respondent has to deposit every month the commission amount in the account no.4001231030084322 in Uttar Banga Kshetriya Gramin Bank. It is the bounden duty of the

petitioner well as Mr. Raghunath Paul, the other partner, to share their amount between themselves. The petitioner cannot invoke Article 226 of the Constitution of India before this Court for sharing of the said commission amount since the writ Court cannot grant this prayer sought for by the petitioner and the petitioner ought to have approached the Court concerned for redressal of his grievance whatever against the other partner as per the partnership deed.

Therefore, by giving liberty to the petitioner to approach the Court concern, I am inclined to dispose of the writ petition in the following manner:

- a) The writ petition is disposed of;
- b) The petitioner is given liberty to approach the appropriate Court for redressal of his grievances since the respondent has already deposited the commission amount in account no.4001231030084322 in Uttar Banga Kshetriya Gramin Bank.

With these observations this writ petition is disposed of.

(M. V. MURALIDARAN, J.)