

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

FMA 411 of 2024

With

IA No.: CAN 1 of 2024

**Biswanath Ghosh (since deceased) represented by his legal
heirs and successors Jogmaya Ghosh & Ors.**

Vs.

The State of West Bengal & Ors.

With

FMA 410 of 2024

With

IA No.: CAN 1 of 2024

**Biswanath Ghosh (since deceased) represented by his legal
heirs and successors Jogmaya Ghosh & Ors.**

Vs.

Utpal Ghosh & Ors.

in

WPA 7087 of 2019

Utpal Ghosh

Vs.

The State of West Bengal & Ors.

With

WPA 7969 of 2019

**Biswanath Ghosh (since deceased) represented by his legal
heirs and successors Jogmaya Ghosh & Ors.**

Vs.

The State of West Bengal & Ors.

For the appellants : Mr. Partha Sarathi Bhattacharya, Ld. Sr. Advocate
Mr. Falguni Bandyopadhyay, Advocate
Mr. Debabrata Mondal, Advocate
Mrs. Sreetama Neogi, Advocate
Mr. Rahul Sing, Advocate
Ms. Ditipriya Mondal, Advocate

For the State : Mr. Suddhadev Adak, Advocate

Heard & Judgment on : May 2, 2025

DEBANGSU BASAK, J.:-

1. Two Appeals are specially assigned to this Bench by the order dated April 10, 2025 of the Hon'ble the Chief Justice.
2. These two appeals are taken up for analogous hearing and are directed against the same impugned judgment and order dated December 14, 2023 passed in WPA 7087 of 2019 with WPA 7969 of 2019.
3. Both the appeals are at the behest of the same appellants.
4. Appellants and the State are represented.
5. None appears for the private respondent.

6. In course of hearing of the appeals, we requested the learned Advocate-on-record for the appellants to inform the learned Advocate-on-record for the private respondent which the learned Advocate for the appellants did. Despite such information being given, none appears for the private respondent.
7. Of the two writ petitions, as noted above, one was at the instance of the private respondent being WPA 7087 of 2019. The other writ petition being WPA 7969 of 2019 was at the behest of the appellants before us.
8. Both the groups of the private parties seek devolution of an MR licence in their favour.
9. One Jogendra Nath Ghosh, since deceased, was the MR dealer. He expired on January 29, 1997 leaving him surviving four sons and two daughters. Of the four sons, namely, Biswanath Ghosh, Tapan Ghosh, Ajay Ghosh and Utpal Ghosh, Ajay Ghosh and Utpal Ghosh constituted a partnership firm under the name and style of M/s. Ghosh Brothers which applied for the MR dealership standing in the name of late Jogendra Nath Ghosh and was allotted the same.
10. Ajay Ghosh one of the partners of M/s. Ghosh Brothers and a son of late Jogendra Nath Ghosh expired on March 10, 2015 as a bachelor.
11. Definition of 'family member(s)', as appearing in the West Bengal Public Distribution System (Maintenance and Control) Order, 2013 includes brother or sister of a bachelor/spinster in Clause (2)(m)(vi). At the time

- of death of Ajay Ghosh, Biswanath Ghosh, Tapan Ghosh and Utpal Ghosh and two daughters of late Jogendra Nath Ghosh were surviving.
12. In terms of such definition of “family member(s)”, therefore, both Biswanath Ghosh and Tapan Ghosh became entitled to the compassionate appointment as MR dealer in respect of the licence standing in the name of M/s. Ghosh Brothers. M/s. Ghosh Brothers as noted above was a partnership firm of two persons, namely, Ajay Ghosh and Utpal Ghosh. On the death of Ajay Ghosh on March 10, 2015, the partnership firm came to end and the same was not reconstituted amongst the family members. That is not claimed in the two writ petitions also.
13. The authorities were faced with requests of Utpal Ghosh as one part and of Biswanath Ghosh and Tapan Ghosh on the other part for the grant of MR dealership licence standing in the M/s. Ghosh Brothers. All persons in the two writ petitions as noted above, claimed themselves to be dependent upon the MR dealership licence standing in the name of M/s. Ghosh Brothers. Authorities rejected both the requests. In this regard, learned Advocate appearing for the State draws the attention of the Court to the Order No.977-FS/Sectt/Food/6F-03/2014 dated April 28, 2014 and in particular Clause (vi) thereof.
14. Validity of the orders of rejection were under challenge in the two writ petitions. Learned Single Judge allowed Utpal Ghosh to enjoy the

fruits of the MR dealership standing in the name of M/s. Ghosh Brothers.

15. There are serious civil disputes between the heirs and legal representatives of Ajay Ghosh as to who represents Ajay Ghosh in the application for MR dealership licence on compassionate ground. Family as amended on September 29, 2023 includes a brother or a sister of a bachelor. Ajay Ghosh died as a bachelor. Biswanath Ghosh and Tapan Ghosh are brothers of such deceased Ajay Ghosh.
16. Partnership firm of M/s. Ghosh Brothers is yet to be reconstituted. Therefore, as a Writ Court, we should not enter into the arena of settlement of the disputes *inter se* amongst the private parties for the purpose of considering which of the private parties is entitled to compassionate appointment on the death of an MR dealer, be it a natural person or a partnership firm particularly in view of the fact that the partnership firm was not reconstituted amongst the parties entitled to do so.
17. In view of the discussions above, the impugned judgment and order dated December 14, 2023 is set aside. None of the writ petitioners are also entitled to any of the relief prayed for in their respective writ petitions, in view of the discussions above, till the settlement of their *inter se* disputes.

18. **FMA 411 of 2024** with **IA No.: CAN 1 of 2024** and **FMA 410 of 2024** with **IA No.: CAN 1 of 2024** are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

19. I agree.

(Md. Shabbar Rashidi, J.)

(AD)