

ASR 13.
Ct. no. 24.
25.02.2025

WPA 2972 of 2025

**Kabita Mandal
Vs.
State of West Bengal & Ors.**

Mr. Syed E Huda
Mr. Sk. Apatabuddin
Mr. Naneela Akbar

.....For the Petitioner

Mr. Swpan Kumar Datta
Mr. Dipankar Das Gupta

....For the State

Challenging a reasoned order dated 17th September 2024 passed by the Direction DDP & S, the instant writ petition has been preferred.

It is the case of the petitioner that the father of the petitioner namely one Bijoy Kumar Mondal was one of the FPS license holders, who expired on 12th July, 2007.

The petitioner applied for license on compassionate appointment in the year 2022. His application was not considered. Accordingly, he approached this court. This court in WPA no. 881 of 2025 vide order dated 27.1.2025 asked for a report from the concerned State Authority. However, the State authority has passed the impugned order on 17th September, 2024.

Mr. Syed E. Huda, learned counsel appearing on behalf of the petitioner submits that the present petitioner was solely dependent upon income of her father (deceased M.R. dealer). He further submits that the widow of the M.R. dealer i.e. mother of the petitioner and one daughter-in-law of the deceased dealer namely Pratima Mondal applied for the license on compassionate ground. Their prayer was rejected, being aggrieved by rejection they have approached this court in a writ petitioner. There are certain other litigations between the authority and family members. Finally the prayer of the family members for getting license on compassionate ground was turned down. It is further contention of the learned counsel for the petitioner that the present petitioner was solely dependent upon the deceased M.R. dealer and after his demise she was solely under marcy of her brothers. When her family members applied for the license she can not applied for the license for the compassionate appointment considering the family decision. It is the further case of the petitioner that the petitioner is a person who is otherwise eligible to get the licence, at present no resultant vacancy had been declared by the State Authority. She further argued that the present petitioner being one legal heir of the deceased M.R. Dealer is entitled to get the license.

Mr. Huda, learned counsel further submits there may be some delay in filing the application but reasons thereof regarding filing application in delay has been specifically assigned in the writ petition. He submits that though the application was filed in delay, it may be considered.

Having heard learned counsel for the parties it appears that the reasoned order dated 17th September, 2024 has assigned the reason for not considering the candidature of the present petitioner as follows:

“ On scrutiny of the case records and considering the submission of the applicant in the light of the WBPDS(M&C) Order, 2013, it is found that the erstwhile dealer, Bijoy Kumar Mandal died on 12.07.2007. the applicant Kabita Mandal married daughter of the deceased dealer did not apply for FPS license on compassionate ground within reasonable time. Rather, she furnished a declaration of “no objection” through affidavit affirmed before a Notary Public in favour of proposed partnership FPS of her mother, Nirmala Mandal and sister-in-law, Pratima Mandal. Finally, she has submitted application on 28.09.2022, i.e.

after about 15 years from the date of death of her father. The applicant could not explain the reason behind inordinate delay in submission of her application.

In my considered view, submission of an application for compassionate appointment as FPS dealer cannot be allowed after so many years. Conditionalities for grant of FPS licence on compassionate ground is clearly set out in the West Bengal Public Distribution System (Maintenance & Control) Order, 2013. The applicant has failed to submit application in due time in compliance of the said control order. Moreover, the argument of dependence/subsistence of the applicant is not tenable as she survived all these years without any earning from the FPS of his father. FPS licence on compassionate ground is a largesse offered by the Government and cannot be claimed as an inherited right of the family members of a deceased/incapacitated dealer. As such, the instant application of Smt. Kabita Mandal is hereby rejected.

The SCF&S, Chanchal is directed to take necessary action for declaration of

the resultant FPS vacancy arising out of death of Bijoy Kumar Mandal, ex-dealer of Vill & PO-Khailsana, P.S.- Pukhuria, District-malda immediately.

Let the copy of this order be communicated to all concerned.”

On the facts and circumstances of this case it appears to me that the writ petitioner is married daughter of the deceased dealer who not applied for the license for compassionate ground rather filed “no objection” in favour of some other applicants, who are the family members. Now as their application were not materialized, the present petitioner has applied for the license. In my view there is a long delay in filing the application for getting compassionate appointment. The status of the present petitioner can be considered to be a “fence sitter” who was consciously silent and observing the fate of the litigation. After litigation was over, the petitioner jumped over the spot and applied for the license. In my view the petitioner being a “fence sitter” can not apply for a license which she has already denied by declaring “no objection” through affidavit affirmed before the competent authority. In the writ petition the petitioner can not claim equity what she already consciously denied to receive.

Under the above observation, I find no justification to entertain the writ petition.

Accordingly, the writ petition is disposed of being devoid of merit.

Affidavit of service is filed in court is taken on record.

[Subhendu Samanta, J]