

03.04.2025.
Item No. 10.
Court No. 13
ap

M.A.T. No. 252 of 2025
With
I.A. No. CAN 1 of 2025
And
I.A. No. CAN 2 of 2025

The State of West Bengal & Ors.
Versus
Rekha Polley

Mr. Nilotpal Chatterjee,
Mr. Amrita Lal Chatterjee.

...For the appellants.

Mr. Debabrata Saha Ray, Id. Sr. Advocate
Mr. Pingal Bhattacharyya,
Mr. Subhankar Das.

...For the respondent/writ petitioner.

Mr. Shyamal Chakraborty,
Mr. Debajyoti Mondal.

...For the added respondent.

Re: CAN 1 of 2025 (Condonation of delay)

1. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of about 43 days in filing the instant appeal.
2. Having heard the learned Advocate appearing on behalf of the appellants as also considering the statements made in the said application, this Court is satisfied with the grounds indicated therein, as sufficiently explaining delay of 43 days in preferring the appeal.
3. In view of the above, the application for condonation of delay being CAN 1 of 2025 is allowed and disposed of.
4. There will be no order as to costs.

Re: MAT 252 of 2025

With
I.A. No. CAN 2 of 2025

5. The instant intra court appeal filed by the State is directed against an interim order dated 7th January, 2025 passed by a learned Single Judge of this Court in W.P.A. No. 368 of 2025.

6. By the impugned order, the learned Single Judge has stayed an order dated 26th December, 2024 directing withholding of supply of ration articles to the writ petitioner's M.R. Distributorship. The ground for such withholding indicated by the State is that the petitioner has not applied for renewal of the distributorship in terms of Clause 27 of the Control Order of 2013.

7. Before the learned Single Judge, persons claiming to be partners of the writ petitioner/respondent had aggressively opposed the passing of any interim order. They have supported the action of the State.

8. The learned Single Judge placed reliance of an interim order of another Single Judge dated 21st September, 2006 passed in W.P. No. 6139 (W) of 2006. By the said order dated 21st September, 2006 (supra), the State was directed to maintain supply of M.R. articles to the petitioner for further distribution amongst the public pending consideration of the petitioner's application for Distributorship. The said writ petition was also filed by Rekha Polley, the writ petitioner/respondent herein. There are other

proceedings taken out by the petitioner and the respondents.

9. This Court is shocked and surprised to note that every proceeding taken out by the petitioner in respect of the distributorship was in her individual name. The M.R. Distributorship licence was in the name of a Registered Partnership Firm called “Anchalick Food Supply Agency”.

10. Section 68 of the Partnership Act mandates that any dispute before a Court of law or otherwise, by or against the Registered Partnership Firm is required to be filed only in the name of such Firm. The Firm can by resolution authorize any individual partner to pursue, file and sign pleadings in such proceeding.

11. Strangely none of the proceedings since 2006 referred to by the learned Senior Advocate, Mr. Saha Ray and Mr. Nilotpal Chatterjee, Counsel for the State bear the name of the Firm having filed or taken out in the name of the Firm. None of the petitions, therefore, including W.P.A. No. 368 of 2025 wherein the impugned order has been passed, indicate that they were taken out by and/or in the name of the Registered Partnership Firm.

12. The situation is further compounded by reason of the private respondent/intervenor, who claims to be a partner of the Firm in whose name the licence for M.R. Distributorship has been issued by the

respondent authorities, has vehemently opposed the locus standi of the petitioner.

13. It is submitted by Mr. Saha Ray, learned Senior Advocate appearing on behalf of the respondent that there is a suit pending as regards the disputes between the partners of the licensee.

14. In view of the above, the locus of the writ petitioner/respondent to maintain the writ petition or any proceedings by describing herself as carrying on business in the name and style of “Anchalick Food Supply Agency” is fraudulent and ex facie illegal. Such descriptions are made only in respect of proprietorship or unregistered partnerships. In the latter case the petitioner is required to mention the name of all the partners and implead them as proforma respondents or petitioners or indicate due authorization by them to take out and maintain the said proceedings.

15. This alone is a ground for rejection of W.P.A. No. 368 of 2025.

16. Be that as it may, the learned Single Judge in the opinion of this Court has committed error even on merits by relying upon the earlier decision of a learned Single Judge of this Court dated 21st September, 2006. The learned Single Judge was probably not apprised that the licence for distributorship was in the name of a Registered Partnership Firm called “Anchalick Food Supply Agency”. The said writ petition is ex facie not maintainable. The subject matter of the said writ

petition is the non-renewal or issuance of a M.R. Distributor licence. The said writ petition has become infructuous by issuance of licence in the name of the licensee.

17. Even assuming for the sake of argument that the said order dated 21st September, 2006 was made in accordance with law, the same cannot absolve the licensee firm from applying for renewal of the licence in accordance with law, particularly Clause 27 of the Control Order of 2013. The impugned order is not sustainable even on its merits.

18. As already discussed hereinabove, W.P.A. 368 of 2025 could not have been maintained by the writ petitioner/respondent in her sole individual name. The order dated 7th January, 2025 shall stand set aside. For the reasons already stated above, W.P.A. 368 of 2025 shall stand dismissed.

19. The licensee/distributor is, however, at liberty to take out individual proceedings in accordance with law, with regard to any lawful grievance against the appellants, as they may be advised.

20. With the aforesaid observations, the instant intra court appeal is allowed and disposed of.

21. In view of disposal of the appeal itself, the connected application being CAN 2 of 2025 shall also stand disposed of.

22. There will be no order as to costs.

23. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)