

29.04.2025  
DL-18  
Ali  
ct. no.24

**WPA 5026 of 2025**

**Sri Sudip Mondal  
Vs.  
The State of West Bengal & Ors.**

Mr. Partha Pratim Roy,  
Mr. Anirban Das,  
Ms. Poulami Chakraborty

....for the petitioner.

Mr. Prasenjit Debnath,  
Mr. Amritansu Sengupta

..... for the private respondent No. 5.

Mr. Suman Sengupta, Sr. Govt. Adv.  
Mrs. Amrita Panja Moulick

.....for the State.

Affidavit-of-Service filed on behalf of the  
petitioner is taken on record.

One Bhadreswar Mondal, since deceased, was a  
proprietor of Fair Price Shop being FPS No.  
133800700024. Bhadreswar Mondal expired on 1<sup>st</sup> of  
October, 2022.

It is the contentions of the petitioner that  
Bhadreswar Mondal had two wife, namely, Sabita  
Mandal (1<sup>st</sup> wife) and Chhya Mandal (2<sup>nd</sup> wife).  
Through 1<sup>st</sup> wife Bhadreswar Mondal has three legal  
heirs, namely, Shyamali Khetrapal (daughter),  
Shyamal Mondal (son) and Pampa Malik (daughter);  
through 2<sup>nd</sup> wife he has only one son, namely, Sudip  
Mandal (petitioner).

It is the contentions of the petitioner that after demise of his father the licence of FPS was granted to Sabita Mandal being the eldest member of the family. It is the further case of the petitioner that Sabita Mandal expired on 29<sup>th</sup> of October, 2023. After his demise, the private respondent applied for licence.

It is the contentions of the petitioner that he being the son of Bhadreswar Mondal, entitled to the respective shares of his father's property. Thus, he is entitled to receive the licence.

The petitioner has filed two representations on 6<sup>th</sup> of August, 2024 as well as 30<sup>th</sup> August, 2024 to the Sub-Divisional Controller, Food & Supplies concerned. But, none of his representations was not considered; hence this writ.

Mrs. Amrita Panja Moulick, learned counsel appearing on behalf of the State submits that after demise of the erstwhile MR Dealer, namely, Bhadreswar Mondal the licence was granted in favour of his widow Sabita Mandal on 14<sup>th</sup> of July, 2023 on consent of all family members including petition . She further submits that according to the provisions of Control Order, as "No Objection Certificate" is not required for the widow of a MR Dealer. Thus, the licence was granted in favour of Sabita Mandal. She further submits that Sabita Mandal expired on 29<sup>th</sup> of

October 2023, after that the private respondent has applied for licence on compassionate ground. The procedure for consideration of the application by the private respondent is yet to be disposed of.

It is the further contentions of Mrs. Panja Moulick that the present petitioner has no right to apply for the licence on compassionate ground. The present petitioner is not a family member of licensee, namely, Sabita Mandal. Hence, the instant writ petition has no merit to entertain.

Learned counsel appearing on behalf of the private respondent No. 5 submits that after demise of his father the licence was granted in favour of his mother Sabita Mandal. After receiving the licence his mother was continuing the business, during the subsistence of her business; she expired on 29<sup>th</sup> of October, 2023. He submits that the present petitioner is not a legal heirs of Sabita Mandal hence, he has no right to file the instant writ petition.

Having heard the learned counsel for the parties and considering the submissions of the petitioner; it appears that the admitted facts of the instant matter is that the erstwhile MR Dealer, Bhadreswar Mondal has two wife, namely, Sabita Mandal and Chhya Mandal. The present petitioner is the son of 2<sup>nd</sup> wife and respondent No. 5 is the son of 1<sup>st</sup> wife.

In considering the right to file an application for compassionate ground Clause 20 Sub Clause (vi) of the WBPDS (Maintenance & Control) Order, 2013 enumerates that:

***(vi) Engagement on compassionate grounds: (a) In case of death or in case of incapacitation on medical ground subject to satisfaction of the authority, of any existing dealer, U/incapacitated dealer having no regular means of income, may be considered on compassionate ground if such prayer along with formal application in Form C2 alongwith Annexure-1 with requisite fee as prescribed in Schedule A, corroborative documents as per checklist and "No Objection" from other family member in the form of an Affidavit to be sworn before a Magistrate in Annexure-II is submitted".***

From the said provisions it appears that to file an application for getting licence on compassionate ground the U has the scope to file the application. The term family member has described and defined in Clause 2 Sub Clause (m) of said Control Order, 2013 as follows:

***"(m) "Family member(s) means-***  
***(i) Spouse; or***  
***(ii) Parents; or***  
***(iii) Son (including son legally adopted before death or incapacitation); or***  
***(iv) Widow of pre-deceased son; or***  
***(v) Daughter (including daughter legally adopted before death or incapacitation, divorced daughter and widowed daughter),***

***Who is wholly dependent on the dealer or distributor at the time of death”.***

In the list of family member Clause m(3) denotes as son includes son (including son legally adopted before death or incapacitation). The term son does not include the son of 2<sup>nd</sup> wife of husband of licensee. Moreover, it appears in this case that the licence of Bhadreswar Mondal was granted in favour of his 1<sup>st</sup> wife Sabita Mandal, when the licence was granted in favour of Sabita Mandal all rights arising out of demise of Bhadreswar Mondal has whipped out. Now, if we consider the right to apply for licence of the petitioner, it appears to me that the petitioner is not truly come under the definition of family member of Sabita Mandal. Clause 20 Sub Clause VI of Control Order, 2013 denoted that in case of death of a “dealer”; the “dealer” means and includes in this case, is Sabita Mandal not Bhadreswar Mondal.

After considering all prayers, submissions and pleadings of the petitioners; it appears to me that the petitioners have no right to apply for licence on compassionate ground which was granted in favour of Sabita Mandal.

I make it clear that the petitioner may have right to apply for licence on compassionate ground after the demise of earlier MR Dealer Bhadreswar Mondal, but he has given consent for granting licence in favour of

Sabita Mandal, thus the petitioner appears to have waived his right.

At this juncture, I find no justification to entertain the petitioner.

Under the above observations, the writ petition being **WPA 5026 of 2025** is disposed of.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

**(Subhendu Samanta, J.)**