

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present: - Hon'ble Mr. Justice Subhendu Samanta.

IN THE MATTER OF
WPA 8183 of 2024

Badal Das & Ors.
Vs.
State of West Bengal & Ors.

For the petitioners	: Mr. Aswini Kr. Bera, Adv., Mr. Arijit Bera, Adv.
For the respondent No.8	: Mr. Debabrata Saha Roy, Adv., Mr. Subhankar Das, Adv.
For the State	: Mr. Anirban Roy, GP., Mr. Tanoy Chakraborty, Adv., Mr. Debroaj Sahu, Adv.
Reserved on	: 22.04.2025
Judgment on	: 16.07.2025

Subhendu Samanta, J.

1. Petitioners are the villagers of village Ratanpur, Under District Jhargram. It is the case of the petitioners that they are beneficiaries under ration shop No. 54, initially the said ration shop was run by one society namely Ratanpur Samabay Krishi Unnoyon Samiti. It is the further case of the petitioner that the said Ratanpur Samabay Krishi Unnoyon Samiti went in liquidation. Thereafter most of the members

of the said Ratanpur Samabay Krishi Unnoyon Samiti joined an another society namely Siraketia Somobay Krishi Unnoyon Samiti. It is the further case of the petitioner that the license of ration shop No. 54 was given to private respondent Namely Sadhan Dandapat, irrespective of several complaint agitation by the local villagers. It is the further case of the petitioner that the said Sadhan Dandapat was a corrupt person and deprived the beneficiaries to distribute ration articles fairly. As the grievances of the petitioners were not considered that approach of this court vide writ petition No. WPA 2110 of 2017 filed by the present petitioners. This court vide its order dated August 3, 2017 disposed of the writ petition directing Sub-Divisional Controller Food & Supply Jhargram to consider the representation of the petitioner. The operative portion of the order is as follows:

“In view of such submission from the Bar, the respondent No.4, Sub-Divisional Controller, Food & Supplies, Jhargram is directed to consider the representation submitted by the petitioners before the respondent No.3 (Annexure P8, 9, 10 and 11 to the writ application) in accordance with law after giving

the petitioners and the respondents No.6 and 7 an opportunity of hearing within a period of ten weeks from the date of communication of the order and the result of the same must be communicated to the petitioners within a period of two weeks thereafter.

With the above direction, the writ application is disposed of.”

2. It is the further contention of the petitioner that in terms of the direction of this court Sub-Divisional Controller Food & Supply concern has passed an order October 16, 2023 stating inter-alia that licence of Sadhan Dandapat initially cancelled by the Sub-Divisional Controller Food and supply, Jhargram, on 05.09.2007, aggrieved with the said order, S. Dandapat filed a writ petition before this court in WPA 21537(w) of 2007, a co-ordinate bench of this court vide its order dated October 4, 2007 quashed and set aside the order of cancellation, by which the license of Sadhan Dandapat was reinstated. It is the further contention of the petitioner that the Sub-Divisional Controller Food and Supply has been represented before this court through the Learned Counsel as well as the respondent No. 7 Sadhan

Dandapat was also represented before this court in WP No. 2110 (w) of 2007, on 3rd August, 2017 but they have not disclosed the fact before the court by such the respondent authority as well as the private respondent has committed fraud upon the court by which the license of the petitioner is liable to be cancelled.

3. Hence this writ.

4. So far as I understand the writ petition, the pleadings and the prayer and are quite dissimilar to each other.

5. In the prayer, the petitioner has sought mandamus upon the respondent authority to cancel the license granted in favour of respondent No. 7 and also seeks direction to provide ration shop to Siraketia Samabay krishi Unnoyon Samiti for interest of mass. This court failed to understand how the petitioner is aggrieved against the action of the State Authority. Furthermore it is quite unnatural and beyond the provisions of control order that how the society namely Siraketia Samabay krishi Unnoyon Samiti can be granted license of FPS Dealership. Moreover the society namely Ratanpur Samabay Krishi Unnoyon Samiti never

appeared before this court or the petitioners are not representing the same society.

6. After perusing the affidavit in opposition filed by the private respondent No. 8 it appears that she is the wife of Respondent No. 7 who expired during the pendency of the instant writ petition on March 30, 2024. It is the contention of the Private respondent No. 8 i.e. due to ill health of her husband and on the basis of prayer to that effect, the concerned Sub-Divisional Controller transfer the license of the FPS shop in favour of the private respondent as per provision of control order 2013 through issuance of licence of March 14, 2024. It is the contention of the private respondent No. 8 that she is catering the ration articles to the beneficiaries since then without any objection for any corner.

7. Learned Counsel for the petitioner placed written notes of arguments and mainly argued that respondent authority as well as private respondent has acted fraud upon the court.

8. In support of his contention he cited several decisions as follows:-

i) **HS Bedi Vs. National Highway Authority of India**

passed by High Court at New Delhi on 20th January 2016.

ii) **ABCD Vs. Union of India (2020) 2 Supreme Court cases 52**

iii) **K Jairam and Ors. Vs. Bengal Development Authority and Ors** Passed by Hon'ble Supreme Court in civil appeal Nos. 7550, 27553 of 2021 judgment delivered on December 8, 2021 **(1995) 1 SCC 421.**

9. Having heard the Learned Counsel for the parties also considering the relevant judgment as placed by the Learned Counsel for petitioner and also considering written argument, it appears to me that the allegation of fraud in this case was made upon the private respondent No. 7 who has already been expired.

10. The petitioner has also pleaded fraud against the respondent authority. On considering the entire facts and circumstances of this case it appears from the impugned

order dated 16.10.2023 passed by the Sub-Divisional Controller Food and Supply, Jhargram, which contains instant matter pertains to an allegation of 2007 against one Sadhan Dandapat (since deceased). It further appears that on the basis of mass objection and allegation initially the license of Sadhan Dandapate was cancelled by Sub-Divisional Controller concerned by passing a specific order of September 5, 2007, thereafter S. Dandapate filed a writ petition being No.WP21537(W) of 2007 wherein a Co-ordinate Bench of this court by its order dated 4th October 2007 quashed and set aside the order of cancellation the concerned authority following the direction reinstated the license of S. Dandapate. I find no justification or reason how fraud was committed upon the court.

11. Learned counsel for the petitioner referred an order passed by a Co-ordinate Bench of this court in WP 2110/2017 on August 3rd, 2017 and argued that at the time of passing the order of said respondent as well as private respondent were aware about the earlier order of this court passed in 2007, but they did not disclose the same. This is,

according to the view of the Learned Counsel for petitioner, is an act of fraud upon this court by State respondent as well as the private respondent. After hearing the submission, it appears to me that the private respondent as well as the state respondent who appeared before the Coordinate-Bench on August 3rd, 2017 were not directed to use affidavit. Moreover, the Co-ordinate Bench has only directed to consider the representation of the petitioners therein. No pleadings or submissions were made by the private respondents or State respondents before the Co-ordinate Bench which can tantamount to be a fraud. Moreover, when there is no duty to speak, parties are not required to speak. Moreover it further appears that the allegation of the petitioner regarding practising fraud is itself a blunt lie. Petitioners being the inhabitants of the village were well aware about the fact that Sadhan Dandapat was running business and after his death of the present petitioner No.8 is running the business. In the present petition only prayer is made against the deceased respondent Sadhan Dandapat. No prayer or allegation is

made against private respondent No.8 of her running the business. However, it appears that Siraketia Samabay Krishi Unnoyon Samiti never made party of this writ petition. Moreover, prayer of the writ petition cannot be considered according to the provision of control order of 2013. The FPS never could not be tagged with said Samabay krishi Unnoyon Samiti as it has no FPS license. However, prayer of this writ petition against dead person itself had in law.

12. Thus after considering entire materials it appears that the instant writ petition is infructuous due to dissimilarity in pleadings and proof I find no justification in the pleadings of fraud as raised by the Learned Counsel for the petitioner. It appears the matter in dispute is in respect of an allegation of 2007. Now after long more than 15 years. Petitioners claim the interference by this court has no merit.

13. Under the above observation writ petition is disposed of. Connected applications, if any, are also disposed of.

14. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)