

19 .03.2025
SL No.06
Court No.24
Ali

WPA 9641 of 2024
Jayashri Saha
Versus
The State of West Bengal & Ors.

Mr. Timir Baran Saha
.....for the petitioner.

Mr. Suman Sengupta,
Ms. Munmun Ganguly
.....for the State.

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

Report in the form of affidavit filed on behalf of the State respondent Nos. 1 to 6 is also taken on record.

One Narayan Chandra Saha (since deceased), husband of the petitioner was erstwhile licence holder of Fair Price Shop. After his demise his son Biswarup Saha got the licence under compassionate appointment. Suddenly, Biswarup Saha was expired on 19th September, 2019. After his death, the present petitioner being the mother of the licensee and wife of Biswarup Saha (Private Respondent No.-7) both were intending to get the licence. The matter appears before this Court Vide Writ Petition No. 2051 of 2022 wherein a Coordinate Bench of this Court on 11th February,

2022 has disposed of the writ petition with a finding as follows:

"On 11.02.2022 the said writ petition came up for hearing before His Lordship the Hon'ble Justice Amrita Sinha and after hearing the Ld. Advocate for the parties His Lordship the Hon'ble Justice³ Amrita Sinha was pleased to disposed of the writ petition by passing the following order:-

One Biswarup Saha was a licensee in respect of Fair Price Shop. The said licensee died on 19th September, 2019. After his death, his wife being the private respondent herein, as well as his mother the petitioner herein, both are vying for his licence in question.

According to the provision of the Control Order, 2013, the spouse is entitled to obtain the licence on compassionate ground without obtaining any 'No Objection Certificate' from the other heirs of the deceased.

The respondent authorities accordingly took a decision to issue the licence in favour of the wife of the deceased.

The petitioner is aggrieved by the same.

The petitioner raises certain personal allegations against the wife of the deceased.

Fact remains that, the writ court ought not to enter into or decide any private dispute amongst the parties.

As the law provides for grant of licence on compassionate ground in favour of the spouse of the deceased, accordingly, it will be

open for the Sub-Divisional Controller (F & S) to take necessary steps in the matter in accordance with law.

However, as it has been submitted that the mother of the deceased is aged about 72 years and is not in a position to take care of her own self and also does not have any independent earnings, accordingly, it is expected that the daughter-in-law being the respondent No. 7 shall take due care of the mother-in-law out of the earnings from the said licence.

The writ petition stands disposed of Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible”.

In terms of the direction as mentioned above, the concerned authority had issued licence in favour of the wife of the Biswarup Saha as the present petitioner is aged about 72 years. The licence was issued in favour of the daughter-in-law (Respondent No. 7) of the petitioner wherein she undertook to look after the petitioner.

It is the contentions of the petitioner in this writ petition that the present licensee i.e. daughter-in-law of the petitioner is not taking care of the petitioner though she is an old ailing person. Petitioner made a complaint and representation with the authority concerned. The authority has taken note of the complaint and has given a notice of hearing to both of them. The hearing was done

at the chamber of the concerned authority but the authority concerned has not taken any steps as yet. Hence, this writ.

Learned counsel appearing on behalf of the State authority has submits a report, it is the contention of the authority that several notice of hearing was given (at least four times) to the PrivateRrespondent No.-7 and the hearing was conducted. The authority concerned has specifically directed the licensee to take care of the petitioner as per direction of this Court and her undertaking at the time of given licence. State respondents placed the necessary documents of notice of hearing and the memo dated 13th September, 2022 issued by the Sub-Divisional Controller concerned upon the licensee (daughter-in-law of the petitioner).

Having heard the learned counsel for the parties also considering the issue in hand; it appears to me that licence is issued in favour of the daughter-in-law of the petitioner in terms of the direction of this Court. The present licensee is duty bound to carry out the instructions of this Court what she undertook at the time of receiving the licence; if she failed to carry out the instructions or to take proper care of the petitioner, the authority is at leave to take

appropriate steps including imposition of fine, apportionment of commission etc, according to the law.

At this juncture, I find nothing to further proceed with this matter.

Accordingly, the instant writ petition is disposed of with a direction to the authority to take proper steps as mentioned hereinabove within four weeks after giving reasonable notice and opportunity of being heard to the parties as per direction with this Court.

The present petitioner is directed to communicate the order to the concerned authority.

Under the above observation, the application being **WPA 9641 of 2024** 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.)