

22.9. 2025
item No.15
n.b.
ct. no. 24

WPA 10026 of 2025

Md. Hassan

Vs.

The State of West Bengal & Ors.

Mr. Subhadeep Chatterjee,
Ms. Arpita Kundu
..... for the petitioner.

Mr. Subhankar Das,
Ms. Moumita Bhattacharyya,
.... For the private respondent.

Mr. Arjun Roy Mukherjee,
Ms. Rajyashree Mukherjee,
..... for the State.

Affidavit of service filed by the petitioner is taken
record.

Petitioner is running a business of distributing green grocery (Apples). For the purpose of business and storing Apples, he approached Shyama Ma Cold Storage/respondent no.5 for preservation of the apples. The respondent no.5 is a licensee of cold storage issued by the State authority for providing cold storage facility to the businessman. Petitioner has utilized their service since year 2017 by paying charges for availing cold storages of respondent no.5. Petitioner had procured around 819 C/R apples, which had send for storage. Thereafter, petitioner time to time withdraw required amount of apples from the cold storage and rest amount 380 C/R apples were kept preserved with the cold store of respondent no.5. In the month of June 2018 when

the agents of the petitioner want to withdraw said apples, they were not allowed to withdraw the same and illegally restrained; for which a criminal complaint was lodged with Polba police station. The petitioner has also approached concerned District Consumer Commission for redressal. The District Consumer Disputes Redressal Commission, Hooghly at Chinsurah in furtherance to the complaint of the petitioner had stated complaint case being case no. CC/97/2018 and passed a final order on August 5, 2024. It has been observed by the said commission that the dispute between the parties is not maintainable before the District Commission according to the provisions of Section 20(A) of West Bengal Cold Storage(Licensing and Regulation) Act, 1966, and the competent authority has to decide any dispute between licensing officer and the hirer. He submits that after the order was passed, the petitioner has made a detailed representation before the learned District Magistrate, Hooghly on April 9, 2025(annexure P-3), which was not considered. Hence this writ petition.

Learned counsel appearing on behalf of the private respondent has raised point of maintainability and submits that instant writ petition is not at maintainable. The petitioner is running a firm of his business. One of the partner of the firm has lodged a complaint case before the Polba police station. The said complaint case

went up before this Court in CRR 3097 of 2022 wherein a co-ordinate Bench of this Court has rightly stayed all criminal proceeding pending before the concerned police Station.

He further submits that the dispute is in respect of year 2018; now in the year 2025, the same cannot be reagitated. The relief as asked by the petitioner in time bound, thus, not maintainable.

Learned counsel appearing on behalf of the State authority submits that the competent authority is District Magistrate to decide any dispute between the parties, though the relief as claimed by the petitioner is time barred the concerned District Magistrate may be directed to decide the issue after hearing all concerned.

Having heard learned counsel for the parties and considering the grievance of the petitioner, it appears that the petitioner initially restrained by respondent no.5 to withdraw the rest 380 C/R apples from cold storage. Thereby, one criminal complaint was lodged before the Polba police station. However, petitioner has approached the District Consumer Commission but it appears to the Commission that the said complaint is not maintainable by virtue of provisions under Section 20A of West Bengal Cold Storage Licensing and Regulation Act, 1966.

It appears that West Bengal Cold Storage Licensing and Regulation of 1966 was promulgated to

provide in public interest for licencing supervision and control of cold storage in West Bengal and to deal with matters incidentally thereto. The concerned authority has set out some procedure for issuance of licence of cold storage.

It is admitted that respondent no.5 is running cold storage having licence from the competent authority according to the provisions of Act 1966. Chapter 5 of the said Act, 1966 has some relevancy whereby Section 20A has given authority to the licensing officer to decide disputes between the licensee and the hirer. Fact suggests that respondent no.5 is a licensee and petitioner is a hirer. The licensing officer according to the provisions of Section 20A shall also deal with any disputes regarding the damages or deterioration of agricultural produce stored in cold storage. It appears that the petitioner has made detailed representation regarding the disputes between the licensee and hirer in respect of damage of agricultural produce stored in cold storage as well as the disputes between them for restraining hirer not to operate or lift the stored agricultural produce/apples.

Considering the situation, it appears that the dispute as raised in the writ petition come within the purview Section 20A of the said Act, 1966.

I am of the view, the respondent authority i.e. District Magistrate, Hooghly being the respondent no.3 must have to act with the representation promptly.

Considering the same, the instant writ petition is disposed of with a direction to the District Magistrate, Hooghly being the respondent no.3 of the writ petition to disposed of the representation of the petitioner dated April 9, 2025 (being annexure P-3 of the instant writ petition) within six weeks from the date of receiving of the instant order.

The respondent no.3 shall disposed of the representation by passing a reasoned order according to law after giving an opportunity of being heard to the petitioner as well as the private respondent and all concerned and shall intimate the decision of the authority within two weeks thereafter.

I make it clear that this Court have not gone into the merit of this matter, the respondent no.3 shall dispose of the representation in accordance with law without being influenced by any observation of this Court.

Since no affidavits are exchanged between the parties, the allegation made in the writ petition shall be deemed to have been not admitted.

The private respondent is at liberty to raise all points including point of maintainability before the appropriate licensing authority.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)