

05.3. 2025
item No.10
n.b.
ct. no.24

WPA 16433 of 2024

**Nabin Sundar Hazra
Vs.
State of West Bengal & Ors.**

Mr. Susanta Kumar Paul,
Mr. Biswarup Biswas,
Mr. Pradip Kumar Ghosh,
..... for the petitioner.
Ms. Sonal Sinha,
Mr. Amritlal Chatterjee,
.... For the State.

The mother of the present petitioner namely, Durba Rani Hazra was the MR Dealer at Radhanagar under P. S. Shyampur, District, Howerah.

Durba Rani Hazra was expired on November 12, 2020. Present petitioner applied for MR dealership licence on compassionate ground. He made specific application with no objection certificate from all legal heirs of deceased MR dealer. A hearing was conducted by Sub-Divisional Controller(F& S), Uluberia. In such personal hearing, respondent no.15, who happens to be the son's wife of previous deceased MR dealer, raised verbal objection instead of filing no objection affidavit before First Class Magistrate. On the basis of verbal no objection, the concerned Sub-Divisional Controller stalled the proceeding and directed the petitioner to submit documents vide communication dated August 22, 2022.

During the pendency of the said proceeding, suddenly a fresh notification was declared by the authority concerned on December 12, 2023. During the hearing of the instant matter, this Court has directed the authority concerned to proceed with the selection process but so far as the grant of licence is concerned, that was injuncted.

The State authority is directed to file affidavit-in-opposition against the writ petition. In terms of direction no such affidavit has been placed yet.

Learned counsel, Ms. Sinha appearing on behalf of the State authority fairly submits that the position of giving appointment under compassionate ground has been settled by the Hon'ble Division Bench of this Court in **Guru Pada Das Vs. State of West Bengal**. She submits that the matter may be relegated to the concerned authority to decide the issue under the observation of the Hon'ble Division Bench in **Guru Pada Das(Supra)** .

Learned counsel appearing on behalf of the petitioner submits that he has placed all the documents as required by the concerned authority. So, necessary direction may be passed by the concerned authority to dispose of the matter as early as possible.

Learned counsel appearing on behalf of the respondent no.8 to 14 submits that they are legal heirs of the deceased MR dealer and now purely dependent upon the petitioner of this matter.

Having heard learned counsel for the parties and also considered the materials in hand, it appears to me that the respondent no.15 is widow of a son of the deceased MR dealer. The definition of family members has been specifically provided in clause 2(m) of the WBPDS(M&C) Order, 2013 as follows:

2(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;]*

It appears from the definition of family member that the clause 2(m)(4) denoted a family member as (widow of predecessor Son). Respondent no.15 is wife of the son of deceased MR dealer. At the time of death of deceased MR dealer, husband of respondent no.15(son of deceased MR Dealer) was alive. Consequently, respondent no.15 cannot be defined as a family member in terms of Clause 2(m) of WBPDS(M&C) Order, 2013. Clause 20 Rule 6(VI) of WBPDS(M&C) Order, 2013 has enumerated that prayer of any family members having no regular means of income

and who is purely dependent upon income of the deceased MR dealer may apply for licence under compassionate ground.

In determining the status of respondent no.15, it appears to me that she may be a relative in terms of definition of clause 2(xa) of Control Order, 2013 but she does not come under the definition of family member.

Considering the aspect, I make it clear that the concerned authority shall consider the case afresh in terms of observation of this Court made in above and also direction of the Division Bench of this Court passed in **Guru Pada Das(Supra)** and shall pass a reasoned order within six weeks from the date of passing of this order.

The authority concerned shall inform their decision to the petitioner within two weeks from the date of passing of this order.

Till then, the further proceeding of vacancy notification dated December 12, 2023 be stalled.

Under the above observation, the instant writ petition is disposed of.

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

(Subhendu Samanta, J.)