

11.02.2025
DL No.4
Court No.24
Ali

WPA 17446 of 2010

**Anup Kumar Bid
Versus
The State of West Bengal & Ors.**

Mr.D.K. Adhikari,
Mr. Samir Kumar Adhikari,
Mr. Deb Dip Adhikari

.....for the petitioner.

Mr. Pinaki Dhole,
Mr. Avishek Prasad

.....for the State.

This is one of the oldest writ petition pending before this court.

Petitioner challenges the impugned order passed by the Sub-divisional controller Food & Supplies, Jhargram on 17th May, 2010 in pursuance to the direction of this court in WPA No. 13537(W) of 2009.

Father of the writ petitioner viz-Satya Charan Bid was erstwhile licence holder of M.R. Dealer-cum-Kerosen Oil. He became ill, licence was transferred in the name of one of his son Sunil Kumar Bid. Petitioner is another son of Satyacharan, who approached this court on the earlier occasion with a ground that the licence was transferred in favour of Sunil Kumar Bid by adopting mal practice and fraud upon the authority

concerned. This court had directed concerned Sub-divisional controller to pass a reasoned decision. Upon hearing the parties, the Sub-divisional controller has passed impugned reasoned order whereby it has been observed that:

"Sri Sunil Kumar Bid of Vill- Bara Sukjora, P.O.- Chhoto Sukjora, P.S. – Belphari, Dist- Paschim Medinipur was appointed as an M.R. Dealer-cum-K.Oil Dealer on compassionate ground due to incapacitation of his aged father Sri Satya Charan Bid in the year 2001. Then Sri Anup Kumar Bid (Petitioner heman), elder brother of Sri Sunil Kumar Bid applied for transfer of the said M.R.-cum-K. Oil Dealership on the plea that Sri Satya Charan Bid prayed for transfer of his M.R.-cum-K. Oil Dealership in favour of Sri Anup Kumar Bid and without obtaining consent from his father, the Dealership was given to Sri Sunil Kumar Bid by the S.C. F&S, Jhargram.

On perusal of Office records that Sri Satya Charan Bid had given consent through an affidavit affirmed on 07.04.2001 and made application for appointment of M.R.-cum-K.Oil Dealership in favour of Sri Sunil Kumar Bid.

As such, the M.R.-cum-K.Oil Dealership was given to Sri Sunil Kumar Bid maintaining the procedure for appointment of Dealership on compassionate ground".

It is the contention of the learned counsel for the petitioner that Satya Charan Bid never intended to transfer the licence in favour of Sunil Kumar Bid who was under Govt. employment at the time of transfer of the licence. He further submits that Satya Charan Bid has made representation before the authority concerned challenging the decision of the authority. He further submits that Satya Charan Bid was all along dependent upon the present petitioner to carry out the licence. Satya Charan Bid had also executed a Registered Power of Attorney in favour of petitioner for carrying the business of M.R. Dealership and Sk. Oil licence.

It is the case of the petitioner that concerned Sub-divisional controller without going through the materials and without perusing the documents has passed the impugned order. He prayed for quashing of the impugned order.

Learned counsel appearing on behalf of the state submits that the respondent authority has used affidavit-in-opposition against the writ petition. He submits that erstwhile M.R. Dealership

Satya Charan Bid has submitted one application on 6th July, 2001 to transfer the licence in favour of Sunil Kumar Bid due to his medical incapacitation. Such application annexed an affidavit of Satya Charan Bid disclosing his intention to transfer the licence in favour of Sunil Kumar Bid. The concerned authority has acted upon the said application and issued licence in favour of Sunil Kumar Bid on February 28, 2002 ; since then the M.R. Dealership was being ran by Sunil Kumar Bid at the premises where the petitioner is now residing.

It is the contention of the learned counsel for the state that petitioner was well aware about the transfer of licence in favour of Sunil Kumar Bid but,as and when they got knowledge that Sunil Kumar Bid is going to resign, they filed writ.

It is further submission of the learned counsel for the state that the reasoned decision passed by the Sub-division controller is based upon the documents. The authority concerned has taken the decision according to the affidavit of the erstwhile M.R. Dealer. After transferring the licence in favour of Satya Charan Bid, the erstwhile M.R. Dealer Satya Charan Bid had no right or contention over the licence which was already transferred.

Heard the learned counsels perused the materials also the annexures in the writ petition. It appears from annexure P-1 that one Registered Deed of Power of Attorney was assisted by Satya Charan Bid in favour of the petitioner on 2nd of May, 1986 wherefrom, prima facie, it appears that the petitioner was helping the business of M.R. Dealership licence of his father i.e. erstwhile M.R. Dealership Satya Charan Bid. It further appears from one application dated 10th of July, 1995 wherein Satya Charan Bid erstwhile M.R. Dealer, intends to transfer the licence in favour of Anup Kumar Bid (petitioner). Moreover, there are several documents to justify the fact of the petitioner. It appears that the concerned Sub-divisional controller has not taken cognizance of those documents at the time of taking decision.

It is true that the decision of the Sub-divisional controller is on the basis of some documents which were kept in the office. At the same time, the sub-division controller has to look into the grievance of the petitioner which, prima facie, justified the reason that the M.R. Dealership licence may have transferred without adopting proper formalities. Moreover, it is uncertain why the then Sub-divisional controller, Jhargram has not taken the cognizance of the application of

erstwhile M.R. Dealer regarding transfer of licence in favour of the petitioner on 10th of July 1995.

Under the above observation, I think it necessary that the matter should be again required to be considered by the authority concerned.

Accordingly, the writ petition being **WPA 17446 of 2010** is disposed of with a direction to the concerned authority to re-hear the matter from the petitioner and to pass a reasoned order.

I make it clear that the petitioner is directed to submit a representation and to place documents at the time of hearing before the concerned authority so that the concerned Sub-divisional Controller may verify the record whether i.e. documents were placed before the concerned office.

The Sub-divisional controller shall provide necessary opportunity of being heard to the petitioner and shall hear Satya Charan Bid (erstwhile dealer), Sunil Kumar Bid and shall pass a reasoned order within eight weeks from the date of submission of representation. The decision should be communicated to the petitioner within two weeks thereafter.

Under the above observation the writ petition is disposed of.

All points including the objections of State respondents are kept open

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

(Subhendu Samanta, J.)