

14.11.2025
Item No.34
Ct. No. 30
Aloke

WPA 24672 of 2025

**Ratna Roy Chowdhury
Vs
State of West Bengal & Ors.**

Mr. Debabrata Saha Roy, Id. Sr. Adv.
Mr. Pingal Bhattacharyya
Mr. Subhankar Das
Mr. Sankha Biswas
... for the petitioner

Mr. Swapan Kr. Datta, Id. GP
Mr. Rajat Dutta
... for the State

1. On hearing the learned counsels for the parties and on perusal of the materials on record, it is an admitted case that the petitioner first prayed for transfer of the licence in her favour in the **year 2010** that is prior to passing of the control order being West Bengal Public Distribution System (M&C) 2013, GO No.2347-FS/Sectt/Food/4P-09/2012 dated:08.08.2013.
2. It is thus submitted by the petitioner that the authority concerned have wrongly decided the petitioner's case as per the **Control Order of 2013**, when the same has to be considered as per the Control Order of 2003, as the application of 2010 is prior to 2013.
3. On perusal of the two Control Orders that is 2003 and 2013, it appears that the Control Order of 2003 does not provide for any compassionate appointment. The provision for appointment, issue of licence and termination of dealership is provided under

Clause 19 of the Control Order 2003, whereas the Control Order of 2013 categorically provides for engagement on compassionate ground. The said provision has been made under Clause 20 (vi).

4. Admittedly, the petitioner's prayer for transfer of licence has been rejected under the Control Order of 2013 which this Court finds suffer from inherent illegality and the said consideration prima facie thus being not in accordance with law, the order dated 16.08.2023 passed by the respondent no. 5 is liable to be set aside.

5. Be it noted that this Court vide its order dated 04.11.2025 has categorically noted the developments in the present case till date.

6. Though, the learned counsel for the petitioner prays for parity with the writ petitioner in WPA 21028 (W) of 2010, it appears that in WPA 21028(W) of 2010, the licence was directed be transferred in the name of one brother from the other brother who had got an employment.

7. It is to be noted that in case of transfer between brothers, it is between two families and not in one family, which in the petitioner's case (husband and wife) is one family. As such the petitioner herein does not stand on similar footing as the petitioner in WPA 21028 (W) of 2010.

8. The notifications/G.O.'s have been issued by keeping in mind that every family should have a source

of income, to ensure that the families do not suffer for lack of opportunity to earn their daily livelihood. This has to be kept in mind of all the stakeholders while considering such cases.

9. Accordingly, considering the said facts, the order under challenge is set aside being not in accordance with law with the direction that the respondent no. 5 shall reconsider the petitioner's application for transfer, filed in the year 2010, as per Control Order of 2003 and on hearing all the stakeholders, pass a reasoned order, in accordance with law as per the said Control Order, 2003.

10. The respondent no. 5 shall consider the application for transfer afresh keeping in mind the observations of the Court made in this order and the order dated 04.11.2025. But it is made clear that the respondent no. 5 shall not be influenced in any manner whatsoever by the observations of this Court and shall come to an independent finding in accordance with law and pass a reasoned order within 60 days from the date of communication of this order.

11. It is further made clear that this Court has not gone into the merit of this case.

12. As no affidavits have been used the contentions in the writ petition are taken to be denied by the respondents.

13. Considering that the vacancy has been declared after 15 long years the notification under

challenge be stayed till disposal of the case afresh by respondent no. 5 as directed.

14. WPA 24672 of 2025 is accordingly disposed of.

15. There will be no order as to costs.

16. Connected application, if any, stands disposed of.

17. Interim order, if any, stands vacated.

18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)