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2025

FRIDAY

Court : CB-28
Item : DL-21
Bench : SINGLE
Matter : WPA
Status : DO
ID : 266306
AR : NANDY

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 26989 OF 2024

MAHADEB MONDAL
VS.

THE STATE OF WEST BENGAL & ORS.

MR. BIDYUT KUMAR HALDER, ADVOCATE
MR. INDRANIL HALDER, ADVOCATE

.....for the Petitioner

MR. ANIRBAN RAY, LD. GP
MR. TANOY CHAKRABORTY, ADVOCATE
MR. SAPTAK SANYAL, ADVOCATE

.....for the State

1. The petition lays challenge to an order dated 18.01.2024 passed by the Additional District Magistrate and Collector of Excise, North 24-Parganas in terms of the order dated 27.03.2023 passed by a Hon'ble Division Bench of this Court in FMA 28 of 2023.
2. The Additional District Magistrate and Collector of Excise has disposed of the appeal preferred by the petitioner against an order of the District Excise Authority by holding that no application for fresh license had been submitted by the petitioner before the District Excise Authority and that since no application had been made, there was no occasion for the District Excise Authority to consider the same. The said Additional District Magistrate and Collector of Excise has, therefore, concluded that the order passed by the District Excise Authority did not merit intervention and disposed of the appeal on above terms.
3. Today when the matter is taken up, Mr. Bidyut Halder, learned Advocate appearing for the petitioner, submits that the petitioner could not make a fresh application because of the enhancement of the charges/fees payable for the purpose of such

application. However, the petitioner is willing to make such application within a month.

4. Mr. Tanoy Chakraborty, learned Advocate appearing for the State submits that this writ-petition does not merit entertainment because presently there is no cause of action for the writ-petition. He further submits that even if an application for grant of a fresh license is made, the same would *ipso facto* not lead to the grant because there are several factors which are to be taken into consideration by the license granting authority which include the requirement of a liquor shop in the relevant area, the status of the applicant (as to whether he is employed or unemployed since unemployed are preferred over the employed) and as to whether the site is free of any restrictions or not.
5. This Court is of the view that Mr. Chakraborty's submission has substance. As at present, there is no cause of action for the writ-petition inasmuch as there is no request pending for grant of license. In so far as the challenge thrown to the order dated 18.01.2024 is concerned, the order appears to be unexceptionable. The petitioner has not been able to demonstrate before the Court that there was any application for fresh license pending which deserved consideration of the District Excise Authority and since there was no application pending the District Excise Authority cannot be faulted for not having granted license.
6. In such view of the matter, the impugned order passed in the appeal that was carried from the order of refusal to grant license because of absence of any application for grant thereof cannot be faulted. The reasons assigned by both the authorities i.e. the Additional District Magistrate and Collector of Excise are well grounded in law and do not deserve interference even in a bit.
7. The petitioner shall be free to make application

before the District Excise Authority, in accordance with law, and the District Excise Authority shall be equally free to take a decision on such application in accordance with law, if the same is at all made.

8. The writ-petition being **WPA 26989 of 2024** is **disposed of** with such observations.

(OM NARAYAN RAI, J.)