14.07.2025.
07
Ct.No.7.
as

WPA 26647 of 2023

Sukhen Chandra Chowdhury & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Susanta Kr. Mukherjee,
Ms. Sonali Bhar.
...for the Petitioners.

Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal.
....for the State.

1. The present writ petition has been preferred challenging the legality of the order passed by the Excise Commissioner in an appeal filed by the petitioner's mother under Section 8 of the Bengal Excise Act, 1909.

2. Succinctly stated, the essential facts that led to presentation of the present writ petition are that one Excise license was granted in favour of the petitioner's mother. During her lifetime, a proceeding was initiated under the Excise Act based on certain allegation, ultimately resulting in the cancellation of the license.

3. Challenging the order of cancellation, the petitioner's mother preferred an appeal. However, despite receipt of the memorandum of appeal, no steps were taken to dispose of it. This inaction prompted the petitioner to file writ petition WPA 5688 of 2021, which was disposed of by a Coordinate

Bench of this Court by an order dated 4th August 2021, directing the appellate authority to dispose of the appeal after affording a reasonable opportunity of hearing to the petitioner and other interested parties, and to pass a reasoned order within the specified time.

4. Pursuant to that order dated 4th August 2021, the appeal was disposed of by the Excise Commissioner by an order dated 16th September 2021. The present writ petition has been filed challenging the said order dated 16th September 2021.

5. At the outset, Mr. Chakraborty, learned Advocate representing the State, submits that the order under challenge in this writ petition is appealable. He draws my attention to Rule 4 of the Consolidated Rules framed under Section 85 of the Bengal Excise Act, 1909, and contends that an appeal from the order passed by the Excise Commissioner lies before the Secretary, Excise Department, Government of West Bengal.

6. Mr. Mukherjee, learned Advocate appearing for the petitioner, prays for leave to prefer an appeal. He also prays that the delay be condoned, considering that sufficient time has been lost due to the pendency of the present writ petition.

7. Heard the learned Advocates appearing for the respective parties and peruse the materials on record.

8. As noted earlier, the present writ petition challenges the order dated 16th September 2021, passed by the Excise Commissioner in an appeal preferred under Section 8 of the

Bengal Excise Act, 1909. Pursuant to Rule 4 of the Consolidated Rules, the order passed by the Excise Commissioner in such an appeal is itself appealable. As previously mentioned, an appeal against an order passed under Section 8 of the Act lies before the Secretary, Excise Department, Government of West Bengal.

9. In view thereof, the writ petition is disposed of, granting liberty to the petitioner to prefer an appeal before the appellate authority in accordance with law.

10. The petitioner shall be at liberty to raise the issue of the pendency of this writ petition to justify the delay in preferring the appeal.

11. With this observation and order, this writ petition is, thus, disposed of.

12. There will be no order as to costs.

13. It is clarified that I have not gone into the merits of the contentions canvassed by the petitioner in the writ petition, and all points are left open to be decided by the appellate authority at the time of hearing the appeal.

(Partha Sarathi Chatterjee, J.)