

02.02.2026

Ct. no.10

Sl. 05

b.r.

WPA 381 of 2025

Sunil Kumar Halder

Vs.

The State of West Bengal & Ors.

Mr. Amarnath Sen

Mr. Malay Dhar

Mr. Biswajit Sarkar

.... For the petitioner

Mr. Debopriyo Karan

..... for the State.

1. Heard the parties through their respective learned counsels.
2. The petitioner in the instant case raises, inter alia, for following reliefs:-

“a) A writ of or in the nature of Mandamus directing the respondents not to carry out and/or comply the order dated 26.11.2024 being Memo No. 752/SC/FS/DH/2024 passed by the Sub-Divisional Controller (F & S), Diamond Harbour and also pass an order to set aside the order dated 26.11.2024 being annexure-“P/11”.

b) A writ of or in the nature of Mandamus directing the respondents, their agents, sub-ordinate to comply the government notification/guidelines and not to de-link the ration cards from the petitioner MR Dealership shop;

c) To direct the respondent no.3 to modify the impugned order dated 09.10.2018 being annexure-P-5 by deleting the expression ‘except the population of Diamond Harbour Municipality’ and to direct the relink all

the ration card holders which were linked with the petitioner's account before the order of suspension forthwith;

d) A writ or order or orders and/or direction/directions in the nature of Certiorari direction the respondents to produce and/or caused to be produced the record of the case before the Hon'ble High Court, Appellate Side, so that conscionable justice may be done by granting the prayer of petitioner.

e) A Rule 'NISI' in terms of prayers (a), (b) (c) and (d) as above;

f) An ad-interim order not to give any effect and/or further effect to the notification dated 21.05.2024 issued by the respondent no.3 and not to appoint any other dealer in the arrear in which the petitioner has been operating;

g) Costs and incidental charges of this application;

h) To pass any such other order or orders as to your Lordship may deem fit and proper."

3. The petitioner submits that a license has been granted on MR Dealership in the year 1982 and subsequently the respondent no.2 issued a showcause notice suspending the linkage of ration card holders of the petitioner by tagging the same with the private respondents.

4. The suspension notice dated 11.06.2018 has been revoked by the respondent no.3 on 9.10.2018.

5. In the mean time the petitioner has filed an appeal before the respondent no.2 challenging inter alia, the order of revocation dated 11.06.2018 on the ground of excluding the population of the Diamond Harbour Municipality from re-linking from tagged account of private respondent.
6. Thereafter the petitioner filed a writ petition for early disposal of the appeal and also not to de-link the entire linkage of the petitioner. The said writ petition has been disposed by an order dated 08.10.2024 with an observation, which is reproduced below:-

“Under the above aspect, I think it necessary to dispose of the matter by directing the concerned Sub-divisional Controller (F & S), Diamond Harbour, the respondent no.3 to comply its order dated 09.10.2018 regarding relink the ration card holders with the present petitioner.

In respect of the proper stay, it appears to me that in respect of CAN No.1 of 2024, I think it is necessary that this prayer is out of the ambit of the instant writ petition. If the authority concerned is decided the issue in respect of their order dated 09.10.2018, there

may be no necessity for publication of new vacancy notification.

With the above observation, the writ petition is disposed of by directing the present petitioner to approach the concerned Authority i.e., respondent no.3 of this writ petition after disposing of the statutory appeal, through a specific representation.

The concerned Authority must disposed of the representation of the petitioner within a period of four weeks after giving an opportunity to the petitioner of being heard and intimate such decision within a period of two weeks thereafter.”

7. In pursuance of the above observation of the coordinate bench of this Court, the petitioner made a representation dated 28.10.2024 which has been taken for consideration by the respondent no. 3. by not considering the submission made in the representation and has passed a non speaking order dated 26.11.2024 which thereby gives rise to perversity.
8. Learned counsel appearing for the State-respondents takes the point of maintainability as the issue involved herein hits the principle of res judicata. It is further

submitted that the order of rejection has already been challenged and given effect to by dint of an order passed by the learned Co-ordinate Bench of this Court dated 8.10.2024.

9. Having heard the parties based upon the materials available on record, I am of the considered view that since respondent no.3 at the time of considering has failed to deal with the submissions made in the representation dated 28.10.2024, the same warrants an interference at this stage by this Court. The respondent no.3 is directed to re-visit the issue by considering the representation dated 28.10.2024 afresh within a period of sixty days from the date of communication of this order by passing a reasoned order in accordance with law upon affording an opportunity of hearing to the petitioner, private respondent and other interested persons, if any, and communicate such decision within a week thereafter.

10. In view of the above the impugned order 26.11.2024 is hereby quashed and set aside. The writ petition, **WPA 381 of 2025**

*is accordingly **disposed of*** without going into the merits of the case.

11. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Smita Das De, J.)