

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 4709 of 2025

**Moktar Sardar & Anr.
-versus
State of West Bengal & Ors.**

**Mr. Syed E. Huda.
Sk. Aptabuddin.
...For the petitioners.**

**Ms. Sonal Sinha. Ld. A.G.P.
Ms. Munmun Ganguly.
... For the State.**

1. The petitioners in the instant case challenges inter alia, the order of rejection dated 20.11.2024 on the ground of non-submission of No Objection Certificate from the legal heirs of the deceased dealer as required under Clause 20 (VI) of the West Bengal Public Distribution System (MNS) Order 2013 (hereinafter referred to as 'Control Order 2013').
2. Appropo the facts of the case is that the petitioners are the sons of the deceased dealer who died on 23.2.2016 leaving behind six persons including one spouse as his legal heirs. The first wife of the deceased dealer pre-deceased the licensed dealer.
3. The petitioners submitted an application on 23.9.2022 seeking an appointment on

compassionate ground against the license of the deceased dealer.

4. All the legal heirs of the deceased dealer have disclosed their credentials in Form C before the authority concerned barring, the second wife whose details have been submitted at the belated stage. On that ground the concerned authority rejected the petitioners application for grant of license on compassionate ground vide order dated 16.2.2023.
5. Thereafter, a further representation has been submitted by the petitioners stating inter alia, to reconsider the issue since the NOC of the second wife of the deceased dealer has already been provided for consideration in respect of the dealership in question.
6. It is submitted by the petitioners that without considering the cause of the delay, the concerned authority proceeded to decide on the basis of a report filed by the respondent No. 4 as directed by the Joint Director, License of DDP&S on 15.2.2024, which is reproduced below:

“In view of the facts and circumstances as stated above, considering the fact that now all other legal heirs of the deceased licensee submitted their no objection declaration in favour of the applicants and keeping in mind that Resultant Vacancy of dealership for the concerned FPS has not been published, the

instant prayer submitted by Shri Moktar Sardar and Shri Mortaja Sardar for engagement as partnership FPS dealer on compassionate ground in place of their deceased father Late Abdul Bari Sardar, deceased dealer of FPS No. 134301700029 under Block PS & Sub Division-Baruipur, District – South 24 Parganas may be considered.

If proposal for engagement of Shri Moktar Sardar and Shri Mortaja Sardar as partnership dealer of FPS No. 134301700029 on compassionate ground is approved by the competent authority, then Resultant FPS Vacancy Notice Vide Memo No. 194/SC/FS/BRP/23 dated 24.3.2023 of the SCFS, Baruipur may be deleted from the transparency webportal of the Department.”

7. On the basis of such report, the respondent no. 5 rejected the application on the self-same ground as has been rejected earlier by the Deputy Director (License), DDP&S on 16.2.2023.
8. The petitioners heavily relies upon the Division Bench judgment of this Court in the case of Bakul Rani Patra –Vs- The State of West Bengal & Ors in M.A.T. No. 1019 of 2018 with CAN No. 6965 of 2018 wherein Their Lordships concurred to hold that “the time limit of 60 days in the Control Order of 2013 is directory and not mandatory and the delay in making an application for compassionate appointment can be condoned if sufficient grounds are made out.”

9. It is submitted that the NOC of the stepmother has been furnished at a belated stage since there arose a inter se family dispute between the parties which prevented the second wife from providing NOC within the time specified in the letter dated 21.9.2022.
10. Learned counsel for the State submits that the petitioners failed to assign any reason for the delay caused in filing the NOC of the stepmother.
11. Learned counsel for the State draws the attention of this Court to a report dated 30.6.2025 to demonstrate that a personal hearing has already been conducted on 29.9.2022, the petitioners undertook not to raise any objection against the announcement of the resultant vacancy, if the NOC of one of the legal heirs is not submitted within 11.10.2022.
12. Learned counsel for the State further submits that the judgment relied upon by the petitioners is distinguishable both in facts as well as in law. In the said judgment the factual matrix is different from the instant case. The petitioners in that judgment have already provided sufficient cause for the delay

to submit the NOC which remains to be absent in the present case.

13. In conspectus of the above as adumbrated herein, I find that the order of rejection dated 20.11.2024 is arbitrary and issued without proper application of mind.

14. The respondent no. 5 has taken a decision to reject the application for non-submission of the NOC from the legal heirs of the deceased licensee, which is not tenable in the eye of law.

15. Having heard the parties upon perusing the materials available on record, I direct the respondent no. 4 to re-visit the issue by considering the representation dated 9.12.2024 in the light of the Division Bench Judgment Bakul Rani Patra (supra) along with the status report filed on 28.5.2024 and shall pass a reasoned order in accordance with law upon affording an opportunity of hearing to the petitioner and the other stake holders if any, and communicate such decision within a week thereafter.

16. However, it is made clear that if the petitioners have been found to be eligible for appointment on compassionate ground, the respondent authorities shall forthwith issue license in

favour of the petitioners upon compliance of all other formalities.

17.The writ petition stands disposed of accordingly without taking any exception to the merits of the case.

18.Urgent photostat certified copy of this order, if applied for, be given to the learned counsel for the parties on usual undertakings.

(Smita Das De, J.)