20.5.2026
ct no. 10
Sl. 24
AGM

WPA 8683 of 2026

Bhabani Das
-Versus-
State of West Bengal & Ors.

Mr. Debabrata Saha Roy, Sr. Adv.
Mr. Pingal Bhattacharya.
Mr. Avidipta Paul.

...for the petitioner

1. The Affidavit-of-service filed today in Court be kept with the records.

2. The petitioner is a licenced M. R. Distributor (Code 408) under the West Bengal Public Distribution System (M&C) Order 2024 operating from two godowns at Mouza Sabdalpur, J. L. No. 54, being Plot No. 441, Khatian No. 602 and Plot No. 478/1254, Khatian No. 338, both incorporated in the licence.

3. On 25.04.2025 an inspection was conducted by the Inquiry Officer. The second godown at 478/1254 was not inspected, yet a finding of shortage of 863.45198 quintal of rice and attah was recorded.

4. By Memo No. 1650 DCFS, (District Controller of Food and Supply), Nadia 2025 dated 26.06.2025 respondent No. 3 suspended the petitioner's distributorship and issued a Show Cause Notice. The petitioner replied, requesting inspection of the second godown as per the Control Order.

5. Following the suspension the petitioner's 'tagged dealers' were 'detagged' and were attached to one Shyamal Nandy. A personal hearing was granted on

19.08.2025 where the petitioner submitted that stock delivered to M/s. Sarkar Enterprise was stored in the uninspected second godown.

6. By an Order dated 27.08.2025 the respondent No. 4 imposed a fine of Rs. 64,76,456/- in terms of para 42 and 48 of the WBPDS (M&C) Order, 2024 directing inter alia, to deposit the same within two weeks.

7. Being aggrieved the petitioner preferred a statutory appeal before respondent No. 3. During re-inquiry on 03.11.2025 the Inquiry Team found physical stock of 485.85 quintal of rice in one godown, contrary to the earlier finding of 'shortages'.

8. The respondent no. 3 being the appellate authority by an order dated 7.1.2026 remanded back the instant appeal to the respondent no. 4 with the following directions which are reproduced below:

> **"***Decision:*
>
> *In light of the above, the undersigned is remanding back the Instant appeal to the DCF&S Nadia with following directions:*
>
> *1. To recalculate the shortage considering all aspects of instant case."*
>
> *2. To pass a final order on the basis of recalculated shortage subject to the final disposal of the Writ Petition subjudice in the Hon'ble High Court.***"**

9. Thereafter the respondent No. 4 passed the impugned order dated 01.04.2026 which is de hors the mandate of the directions contained in the Order dated 07.01.2026 passed by the

respondent No. 3. The directions given in the Order dated 01.04.2026 is reproduced below:

> *"Now the entire stock has to be transferred ot its tagged Distributor, Shyamaliu Nandi (Code-1453) for uninterrupted service and smooth functioning of PDS in this district."*

10. The issues in involved in the instant case is as to;

    i) whether the impugned orders dated 26.06.2025, 27.08.2025 imposing a fine of Rs. 64,76,456/- and Rs. 1,426/- are liable to be quashed for being passed on an incomplete inspection that omitted the second godown at 478/1254, when re-inquiry on 03.11.2025 found physical stock of 485.85 quintal of rice.

    ii) Secondly, whether the petitioner is entitled to restoration of business and stay of recovery, particularly when the order dated 01.04.2026 is de hors the direction dated 07.01.2026.

11. Learned counsel appearing for the petitioner submits that the shortage of 863.45198 quintal of rice was recorded without inspecting the second godown at Plot No. 478/1254 where the actual stock was kept. Re-inquiry made on 03.11.25 found 485.85 quintals of rice proving

the initial finding false. It is further submitted that as per para 42 and 48 of the WBPDS (M&C) Order, 2024 requires proper inquiry. Imposing fine of Rs. 64,76,456/- without considering the reply, and the re-inquiry report and also without affording an opportunity of hearing, the same is illegal and not sustainable in the eye of law. The action of the respondent No. 4 in passing the order dated 01.04.2026 over-reaches the direction dated 07.01.2026 of respondent No. 3. Thus the Order dated 01.04.2026 is de hors jurisdiction.

12. The petitioner submits that the detagging and imposition of fine have stalled the petitioner's business consequently card holders are suffering due to disruption in the supply chain.

13. Learned counsel appearing for the petitioner submits that it is a settled principles of law that an order of suspension cannot remain in force beyond a period of 90 days.

14. In this context the learned counsel for the petitioner relies upon a judgment of the Division Bench of this Court in the case of **Md. Yeasin & Ors. –Vs- State of West Bengal & Ors.** reported in **2006 SCC Online Cal 200** by placing reliance upon paragraph 40 and 41, which are reproduced below:

> *"40. In view of the aforesaid discussions, this Court is of the opinion that the statutory*

provision about conclusion of the proceedings within the period of 3 months from the date of issuance of the show-cause notice cannot be held to be mandatory. The same is directory in nature. But one thing is clear that the proceedings which have been initiated should be disposed of as expeditiously as possible. But the suspension of the dealer causes great inconvenience and hardship as the dealer is thrown out of his business without any subsistence during the suspension period. So the period of 3 months should be considered as mandatory so far as the continuance of suspension in connection with the proceeding is concerned. Therefore, this Court holds that the suspension of the dealer in connection with such proceedings must come to an end after a period of 3 months if within that period the proceedings are not completed. But the proceedings are not ipso facto terminated just on the expiry of the said period of 3 months but should be concluded as early as possible if not within the period of 3 months, but very soon thereafter.

41. Therefore the proceeding which was initiated against the writ petitioner Sk. Mansur Haque by Issuance of show-cause notice dated 23rd November, 2004 must continue and be completed as early as possible but definitely by 15th July, 2006. The writ petitioner should co-operate with the authorities in the matter of conclusion of the proceedings. If the writ petitioner fails to do so or takes any unreasonable stand, the authorities may, by recording reasons, proceed ex parte, if the situation so demands. The dateline given is peremptory. But the suspension order against the writ petition which has been quashed as a result of the judgment of the learned Judge of the Writ Court will remain quashed since the writ petitioner suffered suspension for more than 3 months."

15. It is further submitted that respondent No. 3, being the first appellate authority, is empowered under Section 67 of the WBTPDS Control Order, 2024, in terms of the Notification dated 01.08.2024, to pass a final order instead of remanding the matter to the subordinate authority.

16. Despite service none appears on behalf of the State Respondent.

17. After hearing the petitioner and upon perusal of the records, this court is prima facie satisfied with the submissions made on behalf of the petitioner and interference is warranted at this stage, since the petitioner had remained to be under suspension for more than three months.

18. The order dated 07.01.2026 passed by the First Appellate Authority mandated recalculation. Respondent No. 4 has no authority to pass the order dated 01.04.2026, transferring the stock without acting in terms of the direction given by the respondent no. 3 and thus is liable to be quashed and set aside.

19. Following **Mohammed Yeasin and Others (supra)** as held in para 40 of the said judgment, Respondent No. 4 has exceeded his jurisdiction by transferring the stock without recalculation. In light of the said judgment the suspension beyond 90 days is illegal. The suspension dated 26.03.2025 lapsed on 24.09.2025 and such suspension continuing till date is non-est in the eye of law.

20. In view of the above the orders passed by the respondent No. 3 and respondent no. 4 dated 07.01.2026 and 01.04.2026 are hereby quashed and set aside.

21. The petitioner shall be allowed to continue the M. R. Distributorship business on the basis of the calculation reflected in the order dated 07.01.2026.

22. The state respondents are at liberty to act in terms of the said order forthwith and arrive at a conclusive finding in respect of the proceedings initiated against the petitioner on the ground of shortage of quintals of rice.

23. Respondent No. 3 is further directed to revisit the issue on the basis of the earlier decision and the observations made in the order dated 07.01.2026 instead of remitting the matter back to the subordinate authority.

24. A reasoned final order shall be passed by respondent no. 3 within three weeks from the date of communication of this order, upon affording an opportunity of hearing to the petitioner and other stakeholders, if any. The said decision shall be communicated to the petitioner within a week thereafter.

25. With the above observation and direction, the writ petition stands **disposed of** without going into the merits of the case.

26. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)