

25.2.2026
Item no. 108-109
Court no. 10
g.b.

WPA 7449 of 2025
With
CAN 1 of 2025
WPA 10449 of 2025
With
CAN 1 of 2025

Chintamani Sarkar
Vs.
The State of West Bengal & Ors.
With
Jaba Bala Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Shaunak Ghosh
Mr. Sakhawat Khandakar
..... For the Petitioner in WPA 10449 of
2025 and Applicant in CAN 1 of 2025
Mr. Utpal Das
....For the Petitioner in WPA 7449 of 2025
Mr. Nilatpal Chatterjee
Mr. A. Lal Chatterjee
....For the State in WPA 7449 of 2025

1. There is a typographical error which has crept in the order dated 06.02.2026 where in, the third line of the order “WPA 7749 of 2025” shall be read as “WPA 7449 of 2025”.

2. The other portions of the order dated 06.02.2026 shall remain unaltered.

3. Since both the writ petitions arise out of a common order, the writ petitions are being taken up for hearing analogously for the sake of convenience. The petitioner challenges the rejection of their application for

a compassionate appointment in respect of a vacancy notice dated 15.05.2024 for filling up FPS Dealership.

4. Following the demise of the original licensee the rival family members applied for vacancy.

5. The competent authority rejected both the petitioner's claim solely on the ground of non-submission of No Objection certificates from the respective rival parties.

6. Apropos the facts of the case that the writ petitioner in the Writ Petition being No. WPA 7449 of 2025 is the widow daughter-in-law of the deceased dealer, who expired on 12.06.2020 leaving behind his five married daughters and one widow daughter-in-law. Both the widow daughter-in-law and the private respondents being the petitioner of WPA 10449 of 2025 applied for compassionate appointment under Clause 26 of the West Bengal Public Distribution System (Maintenance and Control) Order 2013.

7. It is submitted by the petitioner of WPA 7749 of 2025 that out of five married daughters, three have furnished their "No Objection Certificates". One daughter is found to be missing and the remaining daughter is the private respondent, who is the petitioner in WPA 10449 of 2025. It is further stated by the widow daughter-in-law that the deceased dealer expired on 29.04.2020. Subsequent thereto, the petitioner submits that after the demise of the deceased dealer, the private

respondent filed a Matrimonial Suit on 28.05.2020 which attained the finality on 10.12.2021. In this context it is further submitted that despite the annulment of the marriage, the private respondent continues to maintain a conjugal relationship with her former husband and is therefore not a dependent family member of the deceased dealer.

8. The private respondent vehemently opposes the said contention of the writ petitioner and submits that the marriage has been annulled by virtue of a decree of divorce.

9. The widow daughter-in-law challenged a vacancy notification 15th May, 2024 by filing the writ petition being WPA No. 26768 of 2024 seeking inter alia, for her appointment. By an order dated the said writ petition has been disposed of by the coordinate Bench of this Court on 28th November, 2024 directing the competent authorities to decide the applications of both the writ petitioners herein (the widow daughter-in-law and the private respondent) by passing a reasoned order within 4 weeks after giving an opportunity of hearing.

10. In pursuance of such direction the respondent No. 4 vide order dated 28th January, 2025 rejected both the application, on the ground of non submission of the No Objection Certificates which is the subject matter of challenge in both the writ petitions taken up for hearing today.

11. The State respondent files a report and the same is kept on records.

12. The petitioner submits that as per Clause 20(iv) of West Bengal PDS (Maintenance and Control) Order 2013, the intention of the legislature is to engage a family member who has no regular means of income, which is reproduced below:

“(vi) Engagement on compassionate grounds: (a) in case of death or in case of incapacitation on medical ground subject to satisfaction of the authority, of any existing dealer, prayer of any of the family members of the deceased/incapacitated dealer having no regular means of income, may be considered on compassionate ground if such prayer along with formal application in Form C2 alongwith Annexure-I with requisite fee as prescribed in Schedule A, corroborative documents as per checklist and “O Objection” from other family member in the form of an Affidavit to be sworn before a Magistrate in Annexure-II is submitted:

Provided that in case of death of a licensee such prayer is submitted within 90 days from the date of death of the licensee:

Provided further that the licensing authority may, on just and sufficient grounds shown by the applicant and for the reasons to be recorded in writing, accept such application upto 120 days from the date of death of the licensee:

Provided further that “No Objection” is not required if the applicant be the spouse of the deceased licensee or if the licensee, because of his/her being incapacitated/infirm has opts the name of the applicant.”

13. It is a well settled proposition of law as held by the Division Bench of this Court in **MAT 842 of 2022** with

I.A. No. CAN 1 of 2022, Gurupada Das vs. State of West Bengal & Ors. in paragraph No. 14 of the said judgment dated 05.08.2022.

*“14. Now the most important question is what is the meaning of “No Objection” from **other family members**. **Family members** have been defined in Clause 2 (m) of the 2013 Control Order which reads thus:*

*2.(m) **“Family members”** means spouse, dependent parents, dependent sons and daughters for the purpose of considering engagement as Dealers/Distributors on compassionate ground.*

*The most important word in the definition is the word ‘**dependent**’. If any of the family member was not dependent on the deceased on the date of his death, his no objection is not necessary for consideration of issuance of licence in favour of any of the legal heir who has applied in Form C along with Annexure-I of the 2013 Control Order. If any of the sons or daughters who are dependent they are required to file “No Objection”. If we read paragraph 2 of sub-Clause (vi) of Clause 20 in conjunction with Clause 2 (m), it would be clear that only sons and 14 daughters who were dependent on the deceased on the date of his death are required to file “No Objection” and not all family members.*

14. The State respondent files a report and the same is kept on records.

15. The State respondents submits that the instant writ petition is not maintainable and sustainable in the eye of law since no legal right or authority of the petitioner has been infringed and the petitioner has no expectation to be appointed as FPS dealer on compassionate appointment.

16. Having heard both the parties this Court finds that the right to apply for compassionate appointment is a legal entitlement governed by policy not a private contract requiring a rival consent. If the petitioner meets all other eligibility criteria the absence of No Objection certificate from a competing family member, cannot be the sole ground for a summary rejection by the state respondent.

17. While compassionate appointment aims to provide immediate financial relief, the authority cannot adjudicate complex family disputes. However, summary rejection based on a missing “No Objection Certificate”, warrants a deeper scrutiny of the underlying policy specially where there is an existence of a legal right and cannot be ignored in the eye of law. The Impugned Order dated 28.01.2025 is hereby quashed and set aside. The matter is remanded back to the respondent No. 3. The respondent No. 3 shall reevaluate the merits of each rival claimants based on merits, financial dependency and eligibility criteria in accordance with law within a period of 60 days from the date of communication of the order upon affording an opportunity of hearing to the petitioner and the private respondents. Such decision shall be communicated to the concerned party within a week thereafter.

18. However, it is made clear that in the course of hearing the respondent No. 3 shall probe into the

sufficiency of the materials available on record to arrive at a logical conclusion in granting compassionate appointment to the suitable candidate as mandated under the provisions of law rather than a technical requirement of No Objection requirement alone.

19. In view of the above discussions, both the Writ Petitions are accordingly disposed of without going into the merits of the case.

20. Accordingly, the writ petition being WPA 10449 of 2025 is also disposed of along with WPA 7449 of 2025.

21. Since the common order is under challenge, both the writ petitions are, accordingly, disposed of.

22. It is, however, made clear until the decision taken by the respondent no.3 attains the finality, the authority concerned shall be restrained from taking any further steps in filling up the vacancy of the FPS dealership.

(Smita Das De, J.)