21-01-2026
ct no. 10
Sl. 12
RP

WPA 28150 of 2025

Sanuara Bibi
-Versus-
State of West Bengal & Ors..

Mr. Amlan Jyoti Sengupta
…for the petitioner

Mr. Mohit Kant Singh,
…for the respondent

Mr. Sanjib Kr. Mal,
Ms. Shomrita Das,
Mr. Shomrik Das
…for respondent nos. 1 & 2

1. The petitioner in the instant case is one of the partners of M/s. Sankar Filing Centre (hereinafter referred to as the Firm) engaged in the business of the Petroleum products.

2. The petitioner prays inter alia, for the following reliefs:

"a) A writ in the nature of Mandamus with a direction to the respondents to make payment of price of Hi Speed Diesel 4005 Litres, Hi Speed 2965 Litres, Motor Speed 4550 Litres and Diesel 4573 Litres where were lying a Nos. underground oil tankers of petititoner's petrol pump and same were sealed on 3.12.2007 and received by the respondents 7.12.2009 which would be total valued at Rs.7,50,000/-as on 03.12.2007 along with 10% interest on the above amount from 03.12.2007 till date to the petitioner immediately.
b) Writ of certiorari to call for he records relating to this case those are lying with the respondents and after perusal the same and hearing the parties a conscionable justice may be done.
c) Rule NISI interms of prayers (a) & (b) above
d) Ad-interim order in term of prayers (a) & (b) above.".

3. Apropo the facts of the case, that an agreement has been entered into by and between the partnership firm 'Sankar Filing

Centre' and Bharat Petroleum Corporation Limited (BPCL) being respondent no. 1 and 2 for petroleum dealership on 02.12.2007. On 03.12.2007 the respondent nos. 1 and 3 suspended the sales and the supply of the petrol by sealing 4 nos. oil tankers with oil on the ground of adulteration.

4. The petitioner made a demand of price of oil kept in 4 nos. oil tankers as on 07.12.2007 by a letter dated 25.07.2011 but the respondent authorities did not consider the same. In the meantime the petitioners have challenged the order of suspension and the termination before this Court on various occasions and the matters have been disposed of accordingly barring two matters which are still pending for disposal.
5. The petitioner further renewed the demand of oil price kept on 4 tankers as on 07.12.2007 on 16.10.2025. But the same remains pending for consideration.
6. The learned Counsel appearing for the respondent nos. 1 and 2 takes the points of maintainability. The petitioner in the instant case being one of the partners of the partnership firm has filed the writ petition by espousing a cause of a partnership firm

without making the other partners as a party to the proceeding.

7. It is submitted that the partnership firm being unregistered firm, cannot enforce a right arising from a contract. By relying upon Section 69 of Sub-Section 2 of the Partnership Act, 1932 it is reproduced below :-

"*No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm*."

8. It is further submitted that money claim is not maintainable in a writ petition. The petitioner has an efficacious alternative remedy by filing a suit in a commercial Court.

9. Money claim often involve disputed question of fact regarding performance or breach which require oral or documentary evidence and is best suited for a Civil Suit.

10. In conspectus of the above, as adumbrated I find that the representation is pending for disposal for a considerable period of time which runs contrary to the respondents own marketing discipline guidelines effected from 1st August, 2005, the relevant extract of 06.01.2002 under the heading 'Handling of Adulterated product of the said guideline is reproduced below:

" *In case of proven adulteration at the RO, the entire expenses towards transportation, pumping of product,* *tank clearing, incidental charges, local levies, etc. will be recovered form the dealer. The dealer will be paid an amount equivalent to the cost of Furnace Oil and for the actual quantity received at the Refinery end."*

11. After careful consideration of case on the basis of the available records I direct the respondent no. 2 to consider the representation dated 16.10.2025 within a period of 60 days being annexure P-4 at page 27 of the writ petition by passing a reasoned order in the light of the relevant guidelines upon affording opportunity of hearing to the petitioner and other interested parties if any, and communicate such decision within a week thereafter.

12. Affidavit-of-service filed by the petitioner is kept on record.

13. The writ petition being WPA 28150 of 2025 is disposed of without going into the merits of the case.

(Smita Das De, J.)