

Harendra Nath Seth Vs. the State of W.B. and ors

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Court : Kolkata

Decided On : Jan-17-2013

Judge : Soumen Sen

Appellant : Harendra Nath Seth

Respondent : The State of W.B. and ors

Judgement :

ORDER

SHEET WP 134.OF 201.IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction ORIGINAL SIDE HARENDRA NATH SETH Versus THE STATE OF W.B.& ORS BEFORE: The Hon'ble JUSTICE SOUMEN SEN Date :

17. h January, 2013.

Mr.D.Saha Roy, Adv., appeaRs.Ms.C.Mukherjee, Adv.appeaRs.The Court : The petitioner was appointed as an M.R.distributor at Anjipara under Goalpukur P.S., district Uttar Dinajpur.

The petitioner is tagged with 24 M.R.dealers and 85490 ration cards under the distributorship licence issued to the petitioner.

The petitioner, in this writ petition, questions the justification for issuance of the orders by the District Controller by which application was invited for appointment of

M.R.Distributors in and around the Islampur town.

From the conspectus of facts narrated in the petition and the affidavit in opposition, it appears that the declaration of vacancy was made consequent upon a finding being arrived at by the concerned authority that one of the distributors being the respondent no.9 is having M.R.dealers in excess of the highest limit prescribed under the regulations and consequent thereupon on a satisfaction being recorded by the respondents authorities, such application was invited.

It is not in dispute that the M.R.dealers that would be tagged ultimately with the M.R.distributors of Islampur may include eight M.R.dealers who according to the petitioner were provisionally tagged to the petitioner but were subsequently withdrawn and tagged with the respondent no.9.

It also appears that in declaring that the respondent no.9 is having M.R.dealers in excess of fifty, the District Controller has taken into consideration such eight M.R.dealers who were de-tagged.

The said order of delinking was not challenged.

The petitioner appears to have made representation on July 26, 2010 for tagging six M.R.dealers to the existing number of 24 dealers who were found to have been earlier tagged to an M.R.distributor at Panjpara and Ramgunge.

The representation would not show that the petitioner restoration of the eight M.R.dealers who were delinked earlier.

claimed The earlier order of delinking was not challenged.

This exercise, in my view, cannot affect the existing right of the petitioner to continue with his business since the number of M.R.dealers tagged to the petition would remain the same.

It cannot be doubted that It would not result in delinking.

the authorities concerned, in deciding the issue relating to creation of a new vacancy, should take into consideration the smooth functioning of the public

distribution system and if a satisfaction is recorded which does not smack of arbitrariness, decision should not be interfered with in a judicial review.

the said The authorities are most competent and equipped to take any decision for creation of a new vacancy in the interest of the smooth operation of the public distribution system.

This court, on the basis of the materials on record, did not find any reason to interfere with the decision taken by the concerned authority in declaring a no vacancy and inviting applications for the appointment of an M.R.distributor at Islampur consequent upon delinking of 12 M.R.dealers.The writ application fails.

The interim order stands vacated.

There will be no order as to costs.

Prayer for stay of the order is made.

Urgent The same is refused.

certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SOUMEN SEN, J.) tk

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