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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
Department of Food & Supplies
11A, Mirza Galib Street, Kolkata-700 087

NOTIFICATION

No. 3034-FS./Sectt/Food/4P-09/2012 (Pt.II) – Kolkata, the 14th December, 2020. – WHEREAS it has been considered necessary to amend the West Bengal Public Distribution System (Maintenance & Control) Order, 2013 (hereinafter referred to as the said Control Order), in the manner hereinafter appearing;

NOW, THEREFORE, in exercise of the power conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Governor is pleased hereby to make, with an immediate effect, the following amendment in the said Control Order, namely: –

Amendments

In the said Control Order,—

(1) In clause 2,—

(a) for sub-clause (h), *substitute* the following sub-clause:—

(h) "Dealer" or "Fair Price Shop Owner" means a person and includes an individual, registered partnership firm, registered Co-operative society, Sangha or mahasangha of self-help group working within a district, in whose name a shop has been licensed to distribute and sell public distribution commodities to ration card holder under the Public Distribution System by an order issued under Part III;";

(b) for sub-clause (j), *substitute* the following sub-clause:—

"(j) "Distributor" means a person and includes an individual, registered partnership firm, registered Co-operative society, corporation or company, Sangha or mahasangha of self-help group working within a district, in whose name a distributorship has been licensed to distribute and sell public distribution commodities to Fair Price Shops as may be specified by the licensing authority under the provisions of this order;

Explanation.— This is clarified that inclusion of corporation or company in this definition is for the purpose of these order. The eligibility for applicant for filling the vacancy/resultant vacancy shall be governed as per the provisions of sub-clause (iib) of clause 26.";

(c) for sub-clause (m), *substitute* the following sub-clause:—

'(m) "family member (s)" means –

- (i) spouse; or
- (ii) parents; or
- (iii) son (including son legally adopted before death or incapacitation); or
- (iv) widow of pre-deceased son; or
- (v) daughter (including daughter legally adopted before death or incapacitation, divorced daughter and widowed daughter);

who is wholly dependent on the dealer or distributor at the time of death.;

(d) after sub-clause (x), *insert* the following sub-clause:—

'(xa) "relative" includes the family member and the following kin:

- (i) son's spouse, son or daughter;
- (ii) daughter's spouse, son or daughter'
- (iii) brother's spouse, son or daughter;
- (iv) sister' s spouse, son or daughter;
- (v) parents brother or sister;
- (vi) spouse brother or sister."

(2) In clause 18, for the words and numbers "between 7.30 a.m. to 11.30 a.m. in the morning and between 4 p.m. to 6 p.m. in the evening", *substitute* the words and numbers "between 7 a.m. to 11.30 a.m. in the morning session and between 3.30 p.m. to 6 p.m. in the evening session.";

(3) In clause 20, –

(a) in sub-clause (iii), for the words "inviting application from Self Help Groups/Registered Co-operative Societies/ Semi-Government bodies/individuals/group of individuals as an entity thereof", *substitute* the words "inviting application from an individual, registered partnership firm, registered Co-operative society, Sangha or mahasangha of self-help group working within a district";

(b) after sub-clause (iii), *insert* the following sub-clause:—

"(iiia) Following person shall not be eligible to apply for a licence of a dealer, namely-

- (a) a person holding a license of dealer or distributor or wholesaler in his name or a person whose relative already has a dealer or distributor or wholesaler license;
- (b) a member of local bodies, local authority, Panchayati Raj Institutions, board or corporation, or Member of Legislative Assembly or a Member of Parliament during his tenure as such capacity;
- (c) a minor or person of unsound mind or an insolvent;
- (d) a person convicted by the court under the Act or in any other criminal proceedings connected with essential commodities;
- (e) a person holding a post in the establishment of any State Government or Central Government or any authority or body or institution of Local self-government established or constituted by or under the Constitution or by any other law made by the Parliament or a State Legislature or by notification issued or order made by the Central Government or a State Government;
- (f) a limited liability partnership;
- (g) a corporation or company:

Provided that nothing in this clause shall affect the continuance of existing license of dealer. ";

(c) after sub-clause (iv), *insert* the following sub-clause:—

"(iva) Notwithstanding anything contained in this clause, the State Government may, for the reasons to be recorded in writing, cancel the vacancy at any time before the approval is granted.";

- (d) in sub-clause (vi), for the words and number "submitted within 60 days from the occurrence of such vacancy.", *substitute* the following words and numbers:-

"submitted within 90 days from the date of death of licensee provided 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.";

- (e) for sub-clause (vii), *substitute* the following sub-clause:-

"(vii) Whenever –

- (a) an individual licensee opt to convert its business into partnership firm for the reason of his physical incapacitation, or
- (b) a licensee of a partnership firm opt to induct a new partner or substitute the name of an existing partner,

the licensing authorities may, on an application made by the licensee in this behalf, allow him to do so with the approval of the State Government, if and only if any of the family member of licensee having no regular means of income is inducted or substituted as partner and not otherwise:

Provided that in case of death of one of the partner of a partnership firm comprising of only two partners having the dealer's license, the surviving partner shall reconstitute the partnership firm by inducting only the family member of the deceased partner having no regular means of income and not otherwise:

Provided further that –

- (A) in case of death of a partner of partnership firm having the dealer's license, the licensing authorities may, on an application made by the surviving partner, allows him to continue the business for a period of ninety days or till the new license is granted, whichever is earlier;
- (B) in case of death of a partner of partnership firm having the dealer's license and if no eligible family members found to become the partner or partners, as the case may be, of the said partnership firm, the surviving partner, may apply for the conversion, before the licensing authority, and upon satisfaction of the licensing authority, the said surviving partner will be allowed to continue the business, as a sole licensee, subject to the approval given by the State Government in this behalf.

Provided also that in case of death of an individual licensee, the eligible family member or members, as the case may be, may apply before the licensing authority, for running its business, either as an individual licensee or as the registered partnership firm, subject to the approval given by the State Government in this behalf.:"

- (4) In clause 26,–

- (a) in sub-clause (iia), for the words "inviting application from Self Help Groups/Registered Co-operative Societies/ Semi-Government bodies/individuals/ group of individuals as an entity thereof", *substitute* the words "inviting application from an individual, registered partnership firm, registered Co-operative society, Sangha or mahasangha of self-help group working within a district";

- (b) After sub-clause (iia), *insert* the following sub-clause:

"(iib) Following person shall not be eligible to apply for a licence of a distributor, namely–

- (a) a person holding a license of distributor or wholesaler in his name or a person whose relative already has a distributor or wholeseller license;
- (b) an owner of flour mill or rice mill empanelled by the State Government and his family;
- (c) a member of local bodies, local authority, Panchayati Raj Institutions, board or corporation, or Member of Legislative Assembly or a Member of Parliament during his tenure as such capacity.
- (d) a minor or person of unsound mind or an insolvent.
- (e) a person convicted by the court under the Act or in any other criminal proceedings connected with essential commodities.
- (f) a person holding a post in the establishment of any State Government or Central Government or any authority or body or institution of Local self-government established or constituted by or under the Constitution or by any other law made by the Parliament or a State Legislature or by notification issued or order made by the Central Government or a State Government.";

(g) a limited liability partnership;

(h) a corporation or company:

Provided that nothing in this clause shall affect the continuance of existing license of distributor.";

(c) after sub-clause (iv), *insert* the following sub-clause:—

"(iva) Notwithstanding anything contained in this clause, the State Government may, for the reasons to be recorded in writing, cancel the vacancy any time before the approval is granted .";

(d) in sub-clause (vi), for the words and number "submitted within 60 days from the occurrence of such vacancy.", *substitute* the following words and numbers:—

"submitted within 90 days from the date of death of licensee. However, 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.";

(e) for sub-clause (vii), substitute the following sub-clause:—

"(vii) Whenever –

(a) an individual licensee opt to convert its business into partnership firm for the reason of his physical incapacitation, or

(b) a licensee of a partnership firm opt to induct a new partner or substitute the name of an existing partner,

the licensing authorities may, on an application made by the licensee in this behalf, allow him to do so with the approval of the State Government, if and only if, any of the "family member" of licensee having no regular means of income is inducted or substituted as partner and not otherwise:

Provided that in case of death of one of the partner of a partnership firm having the distributor's license, the surviving partner shall reconstitute the partnership firm by inducting only the "family member" of the deceased partner having no regular means of income and not otherwise:

Provided further that-

(A) in case of death of a partner of partnership firm having the distributor's license, the licensing authorities may, on an application made by the surviving partner, allows him to continue the business for a period of ninety days or till the new license is granted, whichever is earlier.

(B) in case of death of a partner of partnership firm having the distributor's license and if no eligible family members found to become the partner or partners, as the case may be, of the said partnership firm, the surviving partner, may apply for the conversion, before the licensing authority, and upon satisfaction of the licensing authority, the said surviving partner will be allowed to continue the business, as a sole licensee, subject to the approval given by the State Government in this behalf.

Provided also that in case of death of an individual licensee, the eligible family member or members, as the case may be, may apply before the licensing authority, for running its business, either as an individual licensee or as the registered partnership firm, subject to the approval given by the State Government in this behalf.:"

(5) After clause 33, *insert* the following clause –

"33A. Power to issue direction and to impose penalty thereof. – (1) Notwithstanding anything contained in any other provisions of this order, the State Government may, for the purposes of ensuring better administration of public distribution system and to enhance quality of service to the beneficiaries, by an order in writing, issue directions to the dealer or distributor or authority concern -

(a) for implementations of the policy of the State Government issued from time to time;

(b) to ensure quality of food grains, service and delivery of appropriate quantum to the beneficiaries;

(c) for use of e-*pose* and other information technology based equipments and associative guidelines thereof;

(d) for calibration of weighing machines as per the norms of Legal Metrology;

(e) for display of information relating to consumer awareness;

(f) to stipulates time limit for submission of bills and other instruments etc. relating to Public distribution system;

(g) for such other matter or matters as the State Government may deem fit and proper.

- (2) Every licensee shall abide by the direction issued by the State Government under sub-clause (1).
- (3) If a licensee or his agent or any other person acting on his behalf is found to violate the directions issued under sub-clause (1), the licensing authority may, after giving the licensee an opportunity of being heard and for the reasons recorded to be in writing, suspend or terminate the license or reduce the volume of business or impose the fine as stipulated in Schedule A.";
- (6) In "FORM G", for item 1 under sub-heading "N.B.", *substitute* the following item: –
- "1. The Standard of Godown shall be in keeping with the norms stipulated by State Government from time to time. There has to be adequate space for loading and unloading within the storage godown precinct to be indicated by way of layout map. The colouring of storage godown shall also be undertaken within two months as per the specification given by the Department."."
- (7) In schedule A, in the table, after Sl. No. 6 and the entries relating thereto, *insert* the following Sl. Nos. and entries relating thereto:

"7.	Penalty for– (i) non- switching "ON" the e-Pos machine on the first working day of every month; (ii) non-switching "ON" the e-Pos machine on other day.	33A	Rs. 20,000/- Rs. 10,000/- per day subject to maximum of Rs. 50,000/- per month	
8.	Penalty for violation of direction issued by the State Government, other than the penalty mentioned in Sl. No. 7 above.	33A	Minimum penalty of Rs. 20,000/-	

2. These amendments shall not be applicable to the vacancies of distributor or FPS dealer, which has been notified by the licensing authority on or before the publication of this notification in the *Official Gazette*.

By order of the Governor,

PARWEZ AHMAD SIDDIQUI, IAS
Secretary to the Government of West Bengal