

WPA 22463 of 2022

Gurupada Pramanik
-vs-
The State of West Bengal & ors.

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharyya
Mr. Subhankar Das
Mr. Neil Basu

...for the petitioner
Mr. Susovan Sengupta
Mr. Subir Pal
...for the State

This is an application under Article 226 of the Constitution of India praying for direction upon the respondents to withdraw the rejection order dated 19.09.2022 issued by the Secretary, Food & Supplies Department, Government of West Bengal.

Exception filed by on behalf of the petitioner in response to the Report earlier filed by the State is taken on record.

Mr. D. Saha Roy, learned counsel appearing on behalf of the petitioner, submits as follows. The petitioner had responded to a vacancy notification regarding engagement of dealer for a fair price shop. He complied with all the requirements. However, a notification dated 19.09.2022 was thereafter passed by the Principal Secretary, Government of West Bengal requiring the candidates to fulfil further conditions – one, regarding financial capacity and the other

regarding space meant for the dealership. The petitioner challenged these two notifications by filing a writ petition. By an order dated 10.04.2015 passed by this Court in WP 32840 (W) of 2014, it was made clear that maintaining a bank balance of Rs. 5 lakhs at the time of making an application was not to be insisted upon. The Appellate Court subsequently affirmed the order passed by the Single Bench. However, due to inadvertence, it was not intimated before the Division Bench that by the time such order was passed the vacancy notice had already been withdrawn. Nevertheless, the petitioner was given a hearing and thereafter, it was ordered that since vacancy notice had been withdrawn, the petitioner was not entitled to any relief in this regard. A fresh vacancy notification was issued. The petitioner could not participate in the same as he was pursuing his relief pursuant to the order passed by the Division Bench. The Report filed by the State does not deal with the circumstances in which the fact of withdrawal of the earlier notification was not intimated to the Division Bench. At present, the petitioner prays that he may be permitted to participate in the selection process.

Mr. S. Sengupta, learned counsel appearing on behalf of the State, submits as follows. There are already two participants for whom the selection process had been undertaken. Since there is a time limited prescribed for submission of application, the authorities are not in a position to extend the same.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition, the Report and the Exception.

It appears that the petitioner had indeed suffered a wrong because it was not intimated before the Division Bench that the earlier vacancy notification had been withdrawn. The petitioner was acting in terms of the order passed by the Division Bench. As such, he cannot be faulted for not making an application in terms of the new notification. The predicament of the petitioner attains more significance for the failure of the State to intimate relevant facts before the Division Bench in the appeal as referred to above.

It is informed that pursuant to the order passed by this Court, no final decision has been taken regarding appointment of dealer.

In such circumstance, it will be just and fair and in the interest of justice, if the petitioner is granted an opportunity to participate in the selection process.

Therefore, the petitioner is permitted to participate in the selection process by making an application within four weeks from this date. The respondent authorities shall treat the petitioner at par with the other applicants in all respects and thereafter, consider the application in accordance with law.

With these observations, the writ petition is disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)