

30.11.2022
Court No.2
Item No.07
Cp

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

WPA 2884 of 2022

**Jiban Barman
Vs.
The State of West Bengal and Ors.**

Ms. Suman Sehanabis (Mandal)
Ms. Salok Sah

... For the Petitioner.

Mr. Hirak Barman
Mr. Momenur Rahman

... For the State.

Ms. Nibedita Pal

....For the respondent no. 7.

The petitioner applied for a fair price dealership licence in the prescribed form pursuant to an advertisement dated December 2, 2021. The petitioner was not selected. The respondent no. 7 was selected. The petitioner submits that the respondent no. 7 should have been disqualified as per Part – 3, Clause 13 (i) of the notification dated December 2, 2021. A near relative of the respondent no. 7 was already holding a dealership of a fair price shop.

It is submitted that a near relative as per Clause 2(xa) of the West Bengal Public Distribution System (Maintenance & Control) Order, 2013 would include the sister's spouse (brother-in-law)

of the respondent no. 7, Sri Bhabesh Chandra Barman.

The learned advocate for the State respondents has handed over the amended control orders in which a relative under Clause 2(xa) has been defined as 'sister's spouse' amongst others. It is contended that the said Bhabesh Chandra Barman is the husband of the sister of respondent no. 7. Mr. Barman is the Secretary of Mathabhanga Sub-Division Dealers' Association and he himself runs a fair price shop. The allegation is that the selection of the respondent no. 7 was illegal, arbitrary and not in consonance with the notification and control order.

Learned advocate for the State respondents submits that these are factual issues which have to be gone into by referring to the records.

Learned advocate for the respondent no. 7 denies the said allegations and submits that no order should be passed on vague and omnibus allegations which are not supported by any cogent evidence.

The petitioner has submitted a list of fair price shop dealers obtained from the website of the Food and Supplies Department. The list refers to one Bhabesh Chandra Barman with the Code No. of the fair price shop in Mathabhanga.

Upon perusal of the said document and upon considering the notification and the control order, this court is of the view that the allegation made by the petitioner must be probed deeper.

The writ petition is disposed of with a direction upon the District Controller, Food and Supplies, Coochbehar, to treat this writ petition as a representation of the petitioner and dispose of the same, in accordance with law.

While doing so, the petitioner, the respondent no. 7 and Bhabesh Chandra Barman, shall be heard. Both the petitioner and the respondent no. 7 shall be permitted to file documents in support of their individual contentions.

Upon hearing the parties and upon perusing the documents as also the records maintained in the office of the Sub-Divisional Controller, Food and Supplies, Mathabhanga, a reasoned order shall be passed and communicated to all concerned.

If it is found that the allegations are correct, appropriate steps shall be taken, in accordance with law.

The entire exercise shall be completed within a period of six weeks from the date of communication of this order.

A copy of the writ petition along with a server copy of this order be served upon the District Controller, Food and Supplies, Coochbehar, for necessary compliance of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)