

10-08-2023
ct no. 13
sl. no. 7
sp

F.M.A. No. 444 of 2023
With
CAN 1 of 2023
With
CAN 2 of 2023
Biren Chaudhuri & Anr.
-Versus-

The State of West Bengal & Ors.

Mr. Ramkrishna Bhattacharya,
Ms. Busra Khatoon,
Mr. Gourhari Das

...for the appellants

Mr. Susovan Sengupta

....for the State

1. This appeal is directed against the judgement and order dated February 7, 2023 passed by a Single Bench of this Court in W.P.A. No. 16216 of 2022 (Biren Chaudhuri & Anr. Vs. The State of West Bengal & Ors.).
2. The appellant/writ petitioner's grievance is that he had applied for a Fair Price Shop Dealership in the year 2019 pursuant to notification dated January 24, 2019. One of the conditions of eligibility was that the applicants must have a minimum balance of Rs. 5 lacs for a period of time in the bank account of the applicant. The appellant/writ petitioner applied under the aforesaid notification along with many others.
3. The respondent authorities found that the majority of the applicants did not fulfil the basic criteria. The entire process of inviting

application was abandoned and a fresh notice was published in the year 2022.

4. In the meantime, by an amendment dated April 11, 2022, Sub-Clause (iia) was incorporated into Clause 20 of the West Bengal Public Distribution System (Maintenance and Control) Order, 2013.
5. By reason of the amendment, instead of publication in the Official Gazette, the respondent authorities were permitted to invite applications and publish notices therefor on their notice boards, the Official Website of the Department, and one vernacular and one English newspaper having wide circulation in the area.
6. The appellant/writ petitioner submits that under the second publication, the financial criteria of Rs. 5 lacs in the bank accounts was reduced to Rs. 50, 000/-. It is submitted that as a consequence of the same, a large number of other applicants became entitled to participate in the selection process. The appellant/writ petitioner has been unfairly deprived inspite of having a higher financial background. It is also argued that the respondent authorities were not authorised to reduce the minimum financial criteria from Rs. 5 lacs to Rs. 50,000/-

7. This Court has carefully considered the arguments of the learned counsel for the appellant/writ petitioner and the learned counsel for the State. The financial criteria stipulation in the year 2021 for the purpose of participation for Fair Price Shop Dealership, cannot prevent the State from varying it in subsequent years and for other places.
8. The State is authorised to vary the financial criteria for FPS dealership depending on the area concerned and the financial capacity of likely applicant in a particular area. It is common knowledge that the financial capacity of persons in places like urban areas may not be the same as the capacity of persons located in rural and remote areas. Even if a person may have the capacity to have a Fair Price Shop in a rural or remote area, the State is required to bear in mind that a fair opportunity must also be given to the local residents to participate in the State Distribution at largess, in the instant case, an FPS Dealership.
9. This Court, therefore, does not find any infirmity or illegality in the State having reduced the financial criteria from Rs. 5 lacs to Rs. 50,000/- in the instant case.

10. It is interesting to note from the bank statements of the appellant/writ petitioner that Rs. 5 lacs capacity has been demonstrated by two cash deposits made successively in his bank account. The average balance for the year does not appear to have crossed Rs. 21,000/- at any point of time. The said issue is even otherwise irrelevant and academic as the selection process of the year 2021 has already been abandoned by the respondent authorities.
11. The bona fides of the appellant are, therefore, even otherwise suspect.
12. For the reasons stated hereinabove, this Court is not inclined to interfere with the impugned judgement dated February 7, 2023. Hence, F.M.A. 444 of 2023 shall stand dismissed.
13. In view of the above, all connected applications shall also stand dismissed.
14. There shall however be no order as to costs.
15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)

