

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 8806 of 2023

**Priyanka Pandey
Vs.
The State of West Bengal & Ors.**

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharya
..for the petitioner

Mr. T.M. Siddique
Ms. Amrita Panja Moulick
..for the State

Item No. 63

Heard & Judgment on: 27.07.2023

Bibek Chaudhuri, J.

The State Government in the department of Food and Supplies issued vacancy notification dated 10th May, 2022 for grant of licence in respect of a fair price shop at Chepri-Karcha within Purulia-II Block under police station Purulia (M) in the district of Purulia. It is needless to say that the vacancy notice contained eligibility criteria in part-II of the notification. Part-III of the notification deals with the kinds of

persons who were entitled to file application. Part-IV speaks of the documents required to be attached with the application and Part-V of the said notification states other terms and conditions under which the dealership shall be governed.

It is the case of the petitioner that the petitioner made online payment of requisite fees for submission of application under GRIPS e-challan on 8th June, 2022. Thereafter, she filed an application along with all necessary documents on 12th June, 2022. It is also submitted by the petitioner that as the petitioner did not get any information from the local office of the Sub-Divisional Controller of Food & Supplies regarding the fate of her application, she filed a writ petition being W.P No. 28169 (W) of 2022 before this Court. The said writ petition was disposed of on 11th June, 2023 by the Hon'ble Jay Sengupta, J. holding, inter alia, that the writ petition was premature and accordingly it was dismissed.

It is pointed out by Mr. Saha Roy, learned advocate for the petitioner that in the instant writ petition the learned counsel appearing on behalf of the State submitted that the inquiry in respect of vacancy notification is still pending. On the basis of such submission made by the learned counsel for the State Respondents the writ petition was disposed of. Surprisingly enough on 13th January, 2023 licence of FPS dealership was granted in favour of respondent

No.6. Mr. Saha Roy has raised a question that if the inquiry is pending on 11th January, 2023, how is it possible that the inquiry was concluded, report was sent to the Sub-Divisional Controller and thereafter it was transmitted to the District Controller; from District Controller to the Director and from Director to the Departmental Secretary within one day and licence was issued with utmost promptitude on 13th January, 2023. It is submitted in this regard that the petitioner has specifically alleged foul play between the local officers including the rationing inspectors and others and respondent No.6. On the basis of which a false report was submitted in respect of the inspection and respondent No.6 was granted licence.

The State Respondent No.5 has filed a report on behalf of himself as well as all the respondents stating, inter alia, that the petitioner submitted her application on 2nd June, 2022. It is stipulated in the vacancy notification that the application must contain a declaration along with necessary documents that the applicant had working capital of rupees fifty thousand on the date of filing of the application. Though the petitioner filed the application on 2nd June, 2022, she filed a fixed deposit of a nationalized bank amounting to rupees fifty thousand dated 4th June, 2022. On this score, the application of the petitioner was liable to be rejected. It is further submitted by the learned advocate for the State that during inquiry it

was found that the measurement of the office-cum-shop of the petitioner is much below than the prescribed limit. On the other hand, the respondent No.6 has complied with all the requirements and, accordingly, she was entitled to get licence. It was also pointed out by the learned advocate for the State Respondents that inquiry was held after serving notice to all the applicants on 7th July, 2022. If there was any foul play, the inquiry notice might not be served to the petitioner. Moreover, the petitioner was present during inquiry and she signed the report prepared by the Inquiry Officer without raising any objection as to the measurement of the godown and other requirements.

Learned advocate for the petitioner, on the other hand, has raised vehement objection against such submission made by the learned advocate for the State Respondents. It is submitted by the learned advocate for the petitioner that the petitioner is having the best kind of godown as per specification and requirement of the Food & Supplies Department and her office-cum-shop also meets the requirement as stated in the vacancy notification. The measurement of the godown and office-cum-shop was wrongly recorded by the Inspector.

Having heard the learned advocates for the parties and on careful perusal of the entire materials on record a glaring discrepancy

appears on the face of the record. It is stated in the vacancy notification that the online application must contain the documents of payment of requisite fees through GRIPS e-challan. It is found from the copy of the e-challan that the fees were paid by the petitioner on 8th June, 2022. She collected the medical certificate on 9th June, 2022. She fixed a sum of rupees fifty thousand in a nationalized bank on 4th June, 2022. She affirmed an affidavit on 6th June, 2022. Therefore, the application must be filed after 8th June, 2022 when she paid the requisite fees through GRIPS e-challan. In the inquiry report it is, however, stated that the petitioner filed her application on 2nd June, 2022. Accepting the date of filing of the application on 2nd June, 2022 the Inspector refused to consider all other documents of the application filed by the petitioner. This is an apparent error made on the part of the Inquiry Officer.

In such view of the matter, this Court is of the opinion that a fresh inspection ought to be held on the basis of the petitioner's application dated 12th June, 2022 by a competent officer appointed by the Director, Food & Supplies, Government of West Bengal, respondent No.3 herein. On conclusion of such inspection report and submission of the report, the case of the petitioner shall be considered afresh by the Director, DDP &S, Food & Supplies,

Government of West Bengal and final decision shall be taken by him within 60 days from the date of communication of this order.

With the above order, the instant writ petition is **disposed of**.

Grant of licence in favour of the respondent No.6 shall abide by the result of the decision taken by the Director, DDP &S, Government of West Bengal, respondent No.3 herein.

(Bibek Chaudhuri, J.)