

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Before:

The Hon'ble Mr. Justice Jay Sengupta

WPA 16216 of 2022

Biren Chaudhuri & Anr.

Vs.

The State of West Bengal & Ors.

For the Petitioners	:	Mr. Washef Ali Mondal, Mr. Syed Nazmul Hossain, Mr. Syed Raihanul Hossain, Mr. Syeda Musharrat Sahin.
.		
For the State	:	Mr. Sirsanya Bandopadhyay, Mr. Arka Kumar Nag.
.		
Heard on	:	07.02.2023
Judgement on	:	07.02.2023

Jay Sengupta, J. :

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to complete the formalities of the selection process, which was initiated as per the notification dated 24.01.2019 being Annexure 'P1' to the writ petition for appointment of fair price shop dealer as expeditiously as possible.

Learned counsel appearing for the petitioners submits as follows.

The petitioners had applied for FPS dealership in the year 2019 pursuant to a notification dated 07.02.2019 published in this regard. However, the fate of this application was not communicated to them. Subsequently, the petitioners came to know that a fresh publication was made, that too not in a widely circulated newspaper for such dealership in the same area. Furthermore, the new vacancy notification was not published in the Official Gazette. As such, the petitioners were denied an opportunity to apply for the dealership in respect of the fresh notice. It is germane to mention that the petitioners were quite eligible to get the dealership in respect of the first notice.

Learned counsel appearing on behalf of the State relies on a report filed in this regard and submits as follows. None of the applicants fulfilled the criteria in respect of the notification of 2019. Although on the date of application, the petitioners fulfilled the criteria of having rupees five lakhs as bank balance on the date of application, they did not have such bank balance one year preceding the date of application. Therefore, the petitioners were ineligible even in respect of the first notice. That is why, the second notification had to be issued in the year 2022. Necessary publications have been done in this regard. As per the amendment dated 11th April, 2022 to Clause 20 Sub-clause (iia) of the West Bengal Public Distribution System (Maintenance and Control) Order, 2013, the requirement of publishing such a notice in the Official Gazette has been done away with.

Instead, a notice has to be published in the Official website of the Department. The requirement has been complied with. A notification was published in the notice board, in the Official website of the Department and in a widely circulated Bengali Newspaper “Aajkal” and a widely circulated English Newspaper “Times of India”.

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 filed.

It appears that an amendment was indeed effected in the relevant Control Order on 11th April, 2022. Accordingly, the requirement now is that a public notice is to be given in the notice board, the Official website of the Department and in an English and a Bengali Newspaper, which are widely circulated. It appears that the requirement for publication of the second notice has been duly met.

Even in respect of the first notice, it is apparent that the petitioners were not eligible as one year prior to the date of application, they did not have the necessary bank balance.

Accordingly, I do not find any merit in this application. Therefore, the writ petition is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

Sl. 49/NB