

03 09.08.2023
RP Ct. No. 01
AN

FMA 227 of 2023
with
IA No. CAN 1 of 2021

Azizur Rahaman
Vs.
State of West Bengal & Ors.

Mr. Siddhartha Banerje
Mr. Rakib Hossain Khan
Mr. Shanjil Ahamed
Mr. Subrata Mukherjee
Mr. Ghanashyam Patra

... For the Appellant

Mr. Biswabrata Basu Mallick, learned AGP
Mr. Sanjib Das
Ms. Priyamvada Singh

... For the State

1. This intra-Court appeal is directed against the order dated 13.09.2021 passed in WPA 8583 of 2021. By the said writ petition, the appellant had challenged the order passed by the learned District Magistrate, Murshidabad dated 11.03.2020 rejecting the application made by the appellant for grant of stamp vendor licence. This is a second round of litigation and in the earlier round, there were two sets of litigations, one was the petitioner being a differently able person was not sanctioned the disability pension. Ultimately, directions were issued in the earlier writ petition and we are informed by the learned counsel for the appellant that the disability pension has been restored. The appellant had applied for grant of stamp vendor licence.

2. Pursuant to the notification issued by the

Department the last date of submission of application was 16.03.2018. The appellant had submitted the first application on 15.03.2018 as can be seen from Annexure P appended to the stay application which shows the seal and signature of the Murshidabad Collectorate. Learned counsel for the appellant also relies upon a postal acknowledgement card which shows that the cover was delivered on 05.03.2018 in the Office of the learned District Magistrate, Murshidabad. There is nothing on record to disbelieve the stand taken by the appellant.

3. Therefore, we are of the view that the application submitted by the appellant ought not to have been rejected on the ground that it is been submitted beyond the cut off date i.e. 16.03.2018. The other aspect on which the learned District Magistrate, Murshidabad refuses to pass orders in favour of the appellant with regard to the alleged discrepancy in the Delhi Senior Secondary Open Education Board registration. The appellant has filed a supplementary affidavit dated 17.02.2023 stating that the mistake which occurred have been duly rectified and certain documents have also been appended thereto alongwith the supplementary affidavit. It is for the authorities to verify as to whether the stand taken by the appellant that necessary rectification has been made to correct the mistake as is acceptable or not and in a proceeding under Article 226 of the Constitution of India such exercise can be done. In the light of the finding that the application submitted by the appellant has to be treated to be within time stipulated, we

are inclined to set aside the order passed by the learned District Magistrate, Murshidabad and remand the matter back to the Magistrate for fresh consideration. Though in the impugned order passed by the Magistrate it is stated that the practice of using stamp paper is going to be abolished but till date no such order has been produced abolishing the use of stamp paper, physical papers and stamp labels. In any event, since the application has been directed to be considered afresh, it is deemed that such an application was validly submitted in the year 2018 pursuant to an advertisement issued.

4. Therefore, any subsequent decision can have no impact on consideration of the application of the appellant. In the event, the Government takes a policy decision to abolish all the licences issued to stamp vendors, it is at that stage may be a matter which will be applicable to all such stamp vendors throughout the State.

5. In the light of the above, the appeal stands allowed and the writ petition is set aside and the matter is remanded back to the learned District Magistrate, Murshidabad for fresh consideration. The appellant is directed to submit a fresh representation alongwith the order passed today and enclose all the documents in support of his claim that a mistake which occurred in Delhi Senior Secondary Open Education Board registration has been duly rectified and upon receipt of the document, the learned District Magistrate, Murshidabad shall verify the same and consider the application submitted by the

appellant for grant of stamp vendor licence afresh on merits and in accordance with law. The above direction be complied by the learned District Magistrate, Murshidabad within 12 weeks from the date the appellant submits the representation in terms of the above direction.

6. The appellant is also directed to enclose all other documents in support of his claim to substantiate that the application was submitted in person on 15.03.2018 and received in the Office of the learned District Magistrate, Murshidabad on 05.03.2018.

7. Consequently, the connected application stands disposed of.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)