

01-08-2023
ct no. 13
sl. no. 20
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M.A.T. No. 1258 of 2023
With
IA No. CAN 1 of 2023
Nantu Das Mahanta
-Versus-

The State of West Bengal & Ors.

Mr. Aswini Kr. Bera,
Mr. Arijit Bera

...for the appellant/petitioner

Mr. Somnath Ganguli, Id. A.G.P.,
Mr. Tanoy Chakraborty

...for the State

Mr. Debabrata Saha Roy,
Mr. Debabrata Chakrabarti,
Mr. Subhankar Das

...for the respondent no. 5

1. In M.A.T. 1258 of 2023, the appellant/petitioner has challenged the judgement and order dated June 21, 2023 passed by a Single Bench of this Court in WPA 13863 of 2023 (Nantu Das Mahanta Vs. State of West Bengal & Ors.). By the impugned judgement, the writ petition was dismissed.
2. The case of the appellant/petitioner was that he had applied for allotment of MR Dealership and setting up of a Fair Price Shop at Patrapara under Goaltore Police Station, Paschim Medinipur, the last date for receipt of application was May 7, 2022.
3. The appellant/petitioner submits that he had uploaded the application online as per the

advertisement but could not obtain a formal receipt. A printed receipt of having submitted application online on May 7, 2022 itself has been annexed to the writ petition.

4. While the respondents received the appellant's/petitioner's application on May 9, 2022, the delay in filing application, if any, was not held against him. His application was processed. Three several inspections on July 6, 2022, September 16, 2022 and January 10, 2023 were conducted.
5. The respondents found that the appellant's/petitioner's application did not meet the requirement of the advertisement. Firstly while the appellant/petitioner may have had a balance of Rs. 50,000/- in his bank account on May 7, 2022, two days' later the balance came reduced to about Rs. 700/-. Across the bar, the learned counsel for the appellant/petitioner would explain that the deficit occurred because of payment of medical expenses of his father.
6. The respondents also found that no affidavit as regards non-pendency of criminal cases against the appellant/petitioner was filed along with the application. The third omission that was found was that the dispensing/service counter of the outlet of the appellant/petitioner was smaller than the prescribed requirement.

7. Counsel for the appellant/petitioner would argue that since his client had a balance of Rs. 50,000/- on May 7, 2022 in his bank account, the reduction of balance to Rs. 700/- on May 9, 2022 is of no consequence. It is also argued that the appellant/petitioner produced an affidavit in annexure – 1 to the application in August, 2022. It is thirdly argued that while it may be true that the appellant's/petitioner's service counter may have been smaller than the requirement prescribed by the authority, the allottee/respondent no. 5 had an even smaller counter.
8. This Court notes that the requirement of having a minimum balance of Rs. 50,000/- in terms of the control order and the rules framed thereunder is meant to ensure that a MR Dealership has sufficient liquidity at all times to be able to purchase and maintain stock. It is, therefore, a continuous requirement.
9. The reduction of balance from Rs. 50,000/- to Rs. 700/- within a span of two days in the bank account of the appellant/petitioner, therefore, throws up serious questions as regards petitioner's financial ability to run the MR Dealership in the first place.
10. On the affidavit that was required to be filed as annexure-1 to the application, this Court notes

that such affidavit in the normal and usual course of understanding is a current affidavit, i.e., within 3 or 4 days before the application is submitted with the authority. Admittedly, no affidavit was submitted by the appellant/petitioner. It was submitted more than 2 months after the application. The appellant's application was liable to be rejected on this ground alone.

11. For the reasons stated hereinabove and those recorded by the Court below, this Court is of the view that the impugned judgement dated June 21, 2023 calls for absolutely no interference whatsoever. M.A.T. 1258 of 2023 shall stand dismissed.
12. In view of the above, CAN 1 of 2023 shall also stand dismissed.
13. Interim orders, if any, shall stand vacated.
14. There shall 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.)