

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

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

WPA 20181 of 2023

**Shib Sankar Majumdar
Vs.
Union of India & Ors.**

With

WPA 19844 of 2022

**Shib Sankar Majumdar
Vs.
Union of India & Ors.**

For the Respondent Nos.2 to 5 : Ms. Vineeta Meharia
Mr. Amit Meharia
Mr. Arjun Mookherjee
Ms. Paramita Banerjee
Ms. Subika Paul
Ms. Amrita Das

For the Private respondent : Mr. Sudeep Sanyal
Mr. Sukanta Das
Mr. Chandra Chur Lahiri

Item No.10 & 11

Heard & Judgement on : 08.09.2023

Bibek Chaudhuri, J.

The petitioner in WPA 20181 of 2023 has made a prayer for issuance of a writ in the nature of mandamus commanding the respondent Nos. 2, 3, 4 and 5 to show cause as to why the candidature of the petitioner was not considered in spite of the specific direction of the Hon'ble Division Bench of this Court vide order dated 30th September, 2011 for the vacant post of LPG dealership for the Revenue district of 24th Parganas (North), at the time of Re-Advertisement, issuance of both Letter of Intent and Letter of Allotment etc. The petitioner has also prayed for setting aside /quashing the notification of Re-Advertisement dated 25th December, 2018 and consequent letter of intent dated 21st August, 2019 and letter of allotment dated 28th September, 2020 for LPG dealership with further direction to issue fresh letter of intent and letter of allotment in favour of the petitioner with incidental prayers.

The petitioner also filed another writ petition being WPA 19844 of 2022 making almost similar prayer as made in WPA 20181 of 2023. At the time of hearing of both the writ petitions the petitioner was not represented. The learned advocate for the Indian Oil Corporation refers to the judgment passed in FMA 2492 of 2010 with FMA 2493 of 2010 filed by the petitioner dated 13th July, 2023.

All the issues agitated by the writ petitioner in the above mentioned two writ petitions were taken into consideration by the Division Bench of this Court and the Division Bench in paragraph 17 of

the judgment held as under:-

"17. The Hon'ble Division Bench of this Hon'ble Court was pleased to give threefold directions to IOC:

- (a) Distributorship granted in favour of Sharmila Biswas has to be set aside.
- (b) To examine whether Shib Shankar Majumdar satisfies the residential status to claim the distributorship in place of Sharmila Biswas.
- (c) IOC to consider whether it is possible even if Shib Shankar Majumdar is successful in satisfying the residential status and other conditions in obtaining the dealership in place of Sharmila Biswas, the area of dealership can be bifurcated without affecting viability of the business of existing dealership."

On the basis of the above observation it was clarified by the Division Bench that IOC shall examine the residential status of the appellant for the purpose of appointment as a distributor is subject to the right created in favour of the private

respondent i.e., Hema Saha. It is also clarified that there is no necessity to consider the bifurcation of the distributorship as directed in the penultimate paragraph of the judgment. The said exercise was also done by the IOC and the respondent namely Hema Saha was granted distributorship. The judgment dated 13th July, 2023 in FMA 2492 of 2010 also compensated the appellant by a sum of Rs.5 lakhs to be given to the appellant, the IOC and Rs.5 lakhs to be given to the High Court State Legal Services Authority.

In view of such circumstances, when the writ petitioner has been compensated, this Court is of the view that both the writ petitions on previous allegation, which has now been adjudicated upon are not maintainable.

Accordingly, both the writ petitions are **dismissed**.

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

(Bibek Chaudhuri, J.)

